

Legislative Committee Report – October 19, 2022

The Legislative Action and Advocacy Committee [hereafter “Legislative Committee”] is responsible for monitoring the various bills that are presented to the Senate and Assembly of the State of New Jersey, which affect the rights of seniors residing in Continuing Care Retirement Communities (CCRCs) throughout the state. Specific attention is directed toward any bills and/or amendments that affect the rights of seniors, veterans, veterans’ dependents, and the health and welfare of those individuals.

Current members are Rick Ober, Chair, Gary Baldwin, Immediate Past Chair, Ron Whalin, Wayne Steadman, Barbara Trought, Maggie Heineman, Jim Gallagher, Andy Kleppe, and Dave Watral. New members would be welcomed to the Committee.

A. Gary Baldwin wrote the following regarding the position taken by the Legislative and Executive Committees on recent bills concerning Refundable Deposits: There is recent legislation, introduced into both legislative bodies of the state, that seeks to create a mandatory provision in the state law for the return of deposits within one year following departure of the resident. Most of the laws regulating CCRCs are designed to insure their ongoing solvency. This proposed legislation could have the opposite effect, which is why ORANJ opposes it. The financial health of CCRCs is the critical issue.

In the past there were issues with refundable deposits when the living unit in question had to be reoccupied before a departed resident received their refund. Legislation was passed in 2018 which required a sequential priority system to resolve these issues.

The percentage of residential units occupied varies significantly based on factors such as the economy, stock markets, housing prices,

hurricanes and other weather events, and, very significantly, health crises such as the Covid 19 pandemic. If a significant number of residents pass or move away in a brief period of time and demand for residential units is low, the proposed legislation requiring refunds within a year could cause a financial crisis for a CCRC. This could force cutbacks in staff and services, which could further reduce demand, ultimately resulting in CCRCs seeking financial protection in the courts with residents’ deposits possibly diminished or delayed. Newspaper reports reflect the failure of CCRCs in other states due to occupancy declines due to winter storms, hurricanes, and especially the Covid 19 pandemic.

By and large, the recent sensational newspaper stories in the *NJ Star Ledger* about long delays relate to contracts in existence before 2018. The sequential priority system is generally working well.

We do not wish any of our CCRCs in New Jersey to suffer severe financial difficulties due to temporary causes of low occupancy. The proposed legislation would exacerbate such situations by requiring refundable entrance fees to be refunded by a CCRC during a period when insufficient new entrance fees are being received.

Most of the CCRCs in New Jersey are nonprofits, which do not have the capacity to raise additional equity in the markets. Many have their origins in religious homes for the elderly. New Jersey CCRCs are required to provide sustaining charitable assistance to a resident who is experiencing financial difficulties, except in limited circumstances.

ORANJ has sent letters to the following key legislators asking for a withdrawal of their bills: Senator Codey and Senator Gill (S-1457), Assemblywoman Jasey and Assemblywoman McKnight (A-1196), and Assemblywoman Munoz (A-4078), who are all sponsoring

legislators of the bills. ORANJ also sent letters to Senator Vitale, Senator Gopal, and Senator Singer, all key Senate persons, informing them that ORANJ has asked Senator Codey and Senator Gill to withdraw Senate Bill 1457 and suggesting nonsupport of the bills if they reach committee hearings.

Jim McCracken, President & CEO, LeadingAgeNJ/DE, recently stated that their position on the proposed legislation is consistent with ORANJ and that they would like to coordinate our advocacy on this issue. He has suggested that ORANJ mobilize our membership to contact local district legislators to urge them to oppose the bills if or when they may begin to move in the fall of this legislative session. Mr. Baldwin also wrote an op-ed summarizing the foregoing.

B. A second major issue involves health-care temp agencies. On Wednesday, July 13, 2022, James McCracken and Meagan Glaser, two representatives of LeadingAge NJ/DE, and Brian Lawrence and Liz Fandel, two representatives of Fellowship Senior Living, attended the monthly Zoom conversation with ORANJ Executive Committee members and representatives of most of the member CCRCs. Brian Lawrence explained that even now we cannot meet the demand for services because we lack staff. Brian said over the next 20 years we will need millions more caregivers. LeadingAge and Fellowship are focusing on three asks at the state level and one at the federal level.

1. Brian said that the first ask is to limit the amount that a health care temp staffing agency can offer relative to the “usual and customary hourly rate” in the industry. Subsequently Brian made a revised compromise proposal that the temp agencies be limited to charging 20% over the “usual and customary rate.” This would in effect control how much the temp agencies pay the caregivers.

2. Brian explained that staffing agencies were charging providers much more (up to 50% more) than the caregiver was receiving. This practice enriches the staffing agency at the

expense of the provider who would have to pass increased labor costs on to the recipients of care. The second ask is to restrict staffing agencies to charging providers no more than 20% more than they are paying the caregivers.

3. The third ask is to provide funding for programs to promote training of caregivers. CNA, CHHA, LPN, RN, and to expedite and improve the state licensing processes for these workers.

4. There is also a Federal issue: Encourage Immigration. Bring more foreign health care workers into the US. Shorten the time it takes to get a visa for health care workers – it is now two years.

The ORANJ Executive and Legislative Committees reviewed these asks and indicated support for asks 3 and 4 but not 1. Ask 2 may be considered when there is a bill drafted and a legal opinion supporting its validity.

C. Subsequently New Jersey Governor Murphy asked for community input on the use of left-over American Rescue Plan Covid-19 Relief Funds. A letter was drafted and versions of it were sent by a number of members of the Executive and Legislative Committees and other residents urging that some of these funds be used for the 3rd ask above due to the shortage of caregiver staff at CCRCs.

The Legislative Committee will continue to play defense as needed on Item A, consider appropriate actions when the opportunity arises on Items B and C, and monitor bills introduced in the New Jersey Legislature that affect the rights of seniors residing in Continuing Care Retirement Communities (CCRCs), veterans, veterans’ dependents, and the health and welfare of those individuals.

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