A Conversation about “Trust” in CCRCs and Life Plan Communities



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- October 28, 2026





A Reminder:

- As an academic, I began researching, writing and talking about CCRCs and Life Plan Communities because I want to see them continue to succeed

- **And because I like and support Residents and their futures in CCRC and Life Plan Communities**

“Trust, but Verify”

- From an old Russian proverb, re-introduced into public debates by President Ronald Reagan in 1984 while discussing U.S.’s relations with the Soviet Union
- Also heard during an international Health Law Conference held recently in Canada, that celebrated and reconsidered the “Ottawa Charter,” which is a template written 40 years ago to guide the future for “public health” on a world-wide level. In October 2026, key sessions described:
  - **The importance of “trustworthiness” for the success of programs – and speakers repeatedly tied “trustworthiness” to evidence of “accountability.”**
  - **The future of “citizen science” for progress in public health**

My background

Prior to 1995: Federal judicial law clerk (Florida). Private attorney practicing in New Mexico. Assistant City Attorney (and then overall Acting City Attorney) with primary responsibilities for representing police alleged to have used excessive force. Part-time visiting law professor at University of New Mexico

1995: Accepted tenure-track position at the Dickinson School of Law., where school eventually was involved in "merger" with Pennsylvania State University. Ringside seat at 10 years of negotiations over that merger's "consequences"

2000: Began development of an "Elder Protection Clinic" staffed by students as "certified legal interns" representing older adults

Around 2004: The Clinic's first "CCRC residents" as clients – beginning my personal academic journey to understand this segment of Senior Living

June 2010: Contributions to GAO reports, and testimony before the United States Senate on potential regulatory issues for CCRCs, following the global financial crisis affecting real estate, including Erickson Senior Living's bankruptcy involving multiple CCRCs. Proposed a national "bill of rights" for residents & residents on governing boards

2004-2026: My work with CCRC stakeholders in Pennsylvania, New Jersey, Florida, North Carolina, Maryland, Virginia, Massachusetts, New Mexico, Texas, Arizona, California, Oregon, Washington, Oklahoma . . .

Two Weeks Ago, in Meeting with North Carolina CCRC residents at annual meeting, I highlighted:

A regulatory department that does not shy away from oversight responsibilities for CCRCs

- 2023: using statutory authority to issue an "order of supervision" and giving Aldersgate specific directions to establish a "corrective action plan"
- Recognizing that financial problems can include multi-year negligence over time

State Leadership on 3 levels (DoI, Residents, LeadingAge), willing to work together to improve accountability and financial soundness of CCRCs

A functional plan for legislative and gubernatorial adoption of better laws leading to the 2025 adoption of a "new CCRC law"

Some Key Provisions in NC's 2025 Law

- Reserves & Occupancy Markers
  - Requiring increased operating reserves if occupancy drops below 80%
- Frequency of Financial Reporting
  - Quarterly financial statements
- Recognition of the importance of external evaluations
  - Audits and Actuarial studies
- Mandatory Reporting of Warning Signs
  - Delays of promised refunds
  - Unbalanced or hazardous financial reports will trigger restrictions on "use" of money for development or "dividends"
- Detailed Description of Residents' Right to Self-Organize
- Creation of Enhanced Statewide Communications
  - State Advisory Committee to include residents and providers

Additional Thoughts (Concerns?) on North Carolina's changes:

- Caution about Section 40 establishing confidentiality/privileged status of "documents"
- Need to establish a clear communication link between governing boards and residents (with appropriate communication rules)
- Methods to select CCRC residents as participants in/with governing
- No express right for Residents to serve on governing boards

In New Jersey & Beyond -- Sources of Possible Stress in Senior Living?

- So-called “Black Swan” Events
  - Financial Crisis of 2008-2010
  - COVID-19
- For-Profit Investors with high goals for ROI?
- Growing Market Competition for residential services for Older Adults?
- Leadership?
- Accountability?

A Brief, Cautionary History from Health-Industry

- The history of a nonprofit hospital in Pennsylvania
  - Original community was Allegheny General Hospital in Pittsburgh
- 1986: Selection of new CEO
  - Creation of very large Board of Directors
- 1987-1992: Aggressive Expansion Strategy
  - Horizontal and Vertical Integration
  - “Purchase” of struggling community hospitals to create statewide health care market
  - “Purchase” of independent physicians’ practices
  - 1993- Merger with hospital/medical school in Philadelphia
- 1997: a “Clean” external audit – but wait….

But…

- By 1997: Alleghany Health, Education and Research Foundation (AHERF) had become largest statewide "integrated" health care delivery system in Pennsylvania, but the purchase of debt-laden units was pushing overall system into the red
- During 1997: AHERF raided charitable endowments to cover day-to-day operating expenses – some $78 million in transfers
- Early 1998: AHERF attempted to sell-off 6 non-teaching hospitals for $450 Million. Deal fell through when "hidden debts" revealed during "due diligence" phase of sale
- July 1998: AHERF filed in Bankruptcy Court for Chapter 11 reorganization
  - "Fire Sale" of key operations to a for-profit corporation for $345M
  - Termination of employees, termination of pension plans (eventually triggering federal regulation of pension plans), closing of operations not sold
- Result? The LARGEST Healthcare bankruptcy in history of USA with $1.3 billion in debt and some 65,000 unsecured creditors

Lawton Burns et al, "The Fall of the House of AHERF" – "A chronicle of the hows and whys of the nation's largest nonprofit health care failure," published in HEALTH AFFAIRS, January/February 2000: https://doi.org/10.1377/hlthaff.19.1.7

Potential Takeaways from AHERF history?

- Investment Strategies that take company in new directions with new risks
- Ambitious CEO
- Large (too large?) Governing Board with weak participation in review of finances and growth plans
  - Rubber stamping key acquisition of debt-laden companies
- Internal transfers of money to fund cash-strapped daily operations
  - “Theft” of money held in charitable endowments to fund daily operations
- Failure of Third-Party Oversight
  - Accountants and External Auditors
- “Deepening of Insolvency” – “bonds” were purchased based on poorly researched credit-reports

Comparison to “Risks” sometimes raised as warnings for “Investors” considering “Senior Living Bonds”?

- Occupancy Shortfalls
- Construction Cost Overruns (especially for new projects)
- Management Failures
- Labor Shortages
- Entrance Fee Dependency
- Inadequate Reserves
- Regulatory Complexity (but what about Regulator Indifference?)
- Single-Asset Risk (but what about Asset-Complexity Risks?)

Residents often ask me about “Fiduciary Duties” … (highest duty of care/loyalty/good faith, that may be recognized under the law)

- Between Officers & Directors and “the company” (corporation)
  - Versus “Business Judgment Rule” that usually protects managers from claims by disappointed shareholders
- In other relationships that depend on trust
- In some states, a fiduciary duty may exist between a company and its “creditors,” arising if/when the company enters a “zone of insolvency”
  - “Deepening Insolvency” – a breach of fiduciary duty or a specific tort similar to fraud – an exception to the “business judgment rule”

Other Hot Topics for CCRC & Life Plan Community Residents?

Possible Approaches for Residents?

- Watch and listen
- Study the market-place; gather information as "evidence" about good and bad trends ("citizen science")
- Select your representative speakers carefully – not the rabble rousers, but the most articulate? Avoid internal divisions/squabbles.
- Build and support long-term continuity in residential leadership – don't "age out"
- Ask for appropriate meetings with management and boards of governance; focus on key topic, not a laundry list
- "When in doubt, write it out" – as appropriate, send back-up correspondence
- Develop a strong "citizen" identity within your state, your region, your community, and with your lawmakers and your regulators – and possibly with elder law attorneys in your region too….
- **Patience and perseverance in seeking accountability. Gentle reminders that "accountability supports long-term trust"**

Questions?





Thank you!

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