



CALIFORNIA ADVOCATES FOR NURSING HOME REFORM

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April 8, 2024

Senator Marie Alvarado-Gil, Chair
Senate Committee on Human Services
1020 N Street, Room 521
Sacramento, CA 95814

sent via CA Legislative Portal

RE: SB 1406 (Allen) - Residential Care Facility for the Elderly Rate Increases - Support

Dear Chairperson Alvarado-Gil:

As the proud sponsor of SB 1406, California Advocates for Nursing Home Reform (CANHR) respectfully requests your support on this important bill to protect residents of Residential Care Facilities for the Elderly (RCFEs) from enormous, abrupt, and unfair rate increases. Since 1983, CANHR has advocated to improve the quality of life and quality of care of California's long term care facility residents. RCFE rate increases continue to be a vexing problem for a very vulnerable population that often has few options for redress.

Unprecedented Rent Increases for Older Adults in Assisted Living Facilities

Over the last two years, RCFEs have been raising residents' rates more than ever before. Annual increases of 20-30% are common, while some facilities have raised rates by 100-200%.¹

As featured in an extensive four-part *New York Times* series, "Dying Broke," assisted living fees are "crushingly high," larded with questionable add-on charges and soaring basic rates.² The average cost of an assisted living facility in California has risen to \$67,000, up from just \$42,000 in 2010.³ RCFE residents are reporting that facilities commonly offer low "move-in" rates or false promises of rate "freezes" to induce residents to move in. This is a classic bait-and-switch. The standard RCFE contract gives the facility management complete discretion to raise the rates as much as they want, as often as they want.

Recent callers to CANHR have reported massive and unrelenting rate increases, vastly exceeding inflationary rates. Like many older adults living on fixed incomes and with limited resources, these residents struggle to pay their rent and will face more rate increases absent protections that limit price gouging. These elderly and disabled RCFE residents find it extremely difficult to

¹ One RCFE in Riverside recently raised residents' rates from \$1,700 to \$4,500/month, an increase of 265%!

² [Dying Broke: A KFF Health News-New York Times Project, Extra Fees Drive Assisted Living Profits,](#) *New York Times/KFF Health News*, 11/20/23.

³ ["How Much Does Assisted Living Cost?"](#), National Council on Aging, July 31, 2023,

search for new housing and relocate and risk becoming homeless. Sadly, older adults are one of the fastest growing homeless populations in California.⁴

Exorbitant Rate Increases Fueled by Dubious, Self-Serving Facility Assessments

Besides periodic inflationary increases, the other way RCFEs increase resident rates is by adding on and charging for services that residents don't want or need. Facility contracts give facility management complete discretion to assess residents' needs whenever and however they want. In some cases, RCFEs assess residents - not guided by health concerns - but to maximize revenue. As recently reported by the *Washington Post*, some RCFE operators are notorious for constantly "reassessing" residents and determining that they need ever more services charged at exorbitant rates.⁵ When residents decline these services, they are often charged anyway. Here are some examples:

- A resident of a facility that is part of a large national RCFE chain, was charged a \$600 monthly fee for "medication management" even though his spouse, also a resident in the facility, stored and dispensed his medication. When the resident declined the service, he was charged anyway and threatened with eviction for nonpayment. He relented and paid the fee even though he was not receiving the service.
- A resident who was feeling ill and skipped breakfast was reassessed as needing reminders about mealtimes. She was charged \$500 a month for meal "cueing" even though she did not need or want any mealtime reminders.
- A resident with impaired memory was told he needed 24-hour supervision and was charged \$888 per day (\$37/hour) for a "sitter." Add-on charges for supervision are quite common despite the fact that adequate supervision is part of the "basic services" facilities are required to provide as part of the monthly rent.⁶

RCFE residents would benefit from having a clear enunciation of their right to refuse unwanted services. This right is already well-established and accepted in nursing homes (42 CFR § 483.10(c)(6)) and should be in RCFEs as well. It is the *resident's* care after all, and each resident should control what that is or isn't.

⁴ ["Fastest Growing Homeless Population? Seniors"](#), *CalMatters*, 2/10/23;

⁵ "Assisted Living Managers Say an Algorithm Prevented Hiring Enough Staff," *Washington Post*, 4/1/2024. ("Brookdale's solution to the wide variation in resident conditions was to charge more when they needed more time for any task than Service Alignment allotted. For example, if a resident routinely took long showers, caregivers were supposed to report that to their managers, who would reassess the resident's needs, potentially increasing fees.")

⁶ See Health and Safety Code § 1569.2(o) defining RCFEs as facilities "where varying levels and intensities of care and supervision, protective supervision, or personal care are provided, based upon their varying needs." [emphasis added] See also, 22 Cal. Code of Regulations § 87464(f): "Basic services shall at a minimum include: (1) care and supervision."

SB 1406 Protects RCFE Residents Against Devastating and Unfair Rate Increases.

SB 1406 does three things:

1. Clarifies residents' right to request, refuse, or discontinue a service, and guarantees residents' control over the services they receive.
2. Requires facilities to give residents 90 days instead of 60 days advance notice of rate increases along with a detailed justification of those increases, providing residents additional time to find new housing, and the opportunity to audit the validity of the rate increase.
3. Establishes an RCFE-specific rate increase cap, limiting annual increases to 10% or the increase in the consumer price index plus 5%, whichever is less.

By clarifying and expanding rate increase protections for assisted living residents, SB 1406 provides housing stability for a highly vulnerable population of Californians with limited housing options and stops excessive rate increases in RCFEs.

We respectfully ask that you vote "aye" on SB 1406.

Sincerely,

A handwritten signature in black ink that reads "Anthony Chicotel". The signature is written in a cursive, flowing style.

Anthony Chicotel
Senior Staff Attorney