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Coalition of Assisted Residential Environments (CARE)
10580 N. McCarran Blvd., #115-376
Reno, NV 89503

Date: May 14, 2003

Re: AB326

Dear Senate Finance Committee Members,

My name is Larry Fry, and I am Legislative Chair for CARE. I am writing to share with you our industry's concerns about AB326, in its current amended form as it passed out of the Assembly. CARE represents over 60 licensed residential care facilities with more than 1,400 beds in Nevada. We have wrestled with this bill since its introduction in March. There are two main components to this bill: A physical plant definition of an assisted living facility, and the establishment of a set of "core principles" of assisted living. We are opposed to the first part, but we do support most of the second part, as those common sense principles are already mandated under existing NAC regulations in Chapter 449.

Regarding the first part, this bill would re-define an assisted living facility using physical plant parameters that would effectively eliminate the vast majority of currently licensed facilities from being able to call themselves an assisted living facility. This is due to the fact that the current version of AB 326 as it came out of LCB, calls for a separate bedroom and toilet in each living unit. Our concerns are these:

- ➔ 1. This requirement will eliminate approximately 90% of current facilities from being able to call themselves an "assisted living facility". This is in spite of the fact that the vast majority of the 350 licensed residential care facilities have, in fact, been providing quality assisted living services for our seniors for many, many years now.
- ➔ 2. There will be increased costs to the public sector as the state creates new, separate regulations to govern this new class of long-term care, and its administrators.
- ➔ 3. This requirement will result in increased costs to the private sector, as new assisted living facilities coming on-line would be more expensive to build...and for the existing facilities, the cost of retro-fitting separate bedrooms and toilets would be cost-prohibitive.

The net result will be to drive the supply of assisted living beds down and the cost up. Is that what we really want for our seniors...fewer choices at a higher cost?

- 4. There is a new clause in the bill, which allows for the facility to let the resident continue residing there, despite a decline in their physical and mental condition, and allows the resident to assume risks inherent in living in a separate living unit. We are opposed to this clause (Sec. 7-c), because it contradicts one of our core responsibilities as residential care providers, which is to provide "protective supervision as necessary". And feedback from our insurance providers indicates that this would further aggravate an already tenuous insurance availability situation.

Our industry was not an original proponent of this bill, but we have strived to inject some common sense into it as it went through the Assembly. We were able to successfully participate in a workgroup and amend the language to remove the references to physical plant design having a kitchenette, and retain the valuable core assisted living principles (which are already addressed in the NAC regulations). Thus, we supported it's passage out of the Assembly Health and Human Services Committee, but when it emerged out of the Legislative Council Bureau, some of the original language regarding physical plant design, and the "resident risk assumption" clause described above, were placed back into the bill, making it unacceptable for our industry. Hence, here we are. A second meeting of our workgroup, held May 1st, failed to find agreement, mainly because of the "physical plant" issue.

It's instructive to note that two of the biggest stakeholders in assisted living, the industry itself, and the Bureau of Licensure and Certification, were not original parties to the creation of this bill. Yet, these two stakeholders spend the majority of their time either caring for our seniors, or regulating our facilities. The fact that neither of these parties thought the original legislation necessary should tell you something about the questionable value of this legislation, and makes it easier to understand why the negative consequences of this legislation were not well thought out. The bill is largely redundant (because the core principles it espouses are already addressed in NAC), will be costly, will segregate existing residential care facilities based on physical plant characteristics, and create a costly, duplicate set of regulations in the process.

Assisted Living is not a building, it is a concept of services, delivered in a variety of already regulated living settings, allowing for the maximum flexibility in consumer choice and cost.

Additionally, I would like to point out that the issue of defining and incorporating the term "assisted living" into the current statute was previously addressed last session, with SB74, set to become law this July. SB 74 correctly recognized that our facilities do provide assisted living services, already regulated, and already incorporating the same core principles spelled out in AB326. SB74 does this effectively, efficiently, and at very little cost.

Having said this, there is value in the second part of AB326, in its' statement of core principles, and we do support those wholeheartedly.

In Summary, we would support this bill if it incorporated the following amendments:

- ➔ 1. Require the Board of Health to develop "as necessary", regulations for residential facilities claiming to provide assisted living services. This gives the Board maximum flexibility in determining where and to what extent, separate regulations are required. Why re-invent the entire wheel, at a greater cost, if not needed?
- ➔ 2. Define "Living Units" as "containing a sleeping area or bedroom and convenient access to toilet facilities". This makes the physical plant layout flexible, and reflective of the wide range of licensed facilities. Both the bedroom/sleeping area and toilet access are already addressed in detail in the NAC.
- ➔ 3. Delete Sec. 7-C (which allows for a resident to remain in a facility despite a decline in physical or mental condition and to assume risks related to living in a separate living unit). Since this contradicts our core responsibility, it is inappropriate here.

We support the remainder of the amended bill, as it summarizes the core principles of assisted living nicely in one location in both statute and NAC. Incorporating these amendments would partner well with the timely implementation of SB74 from last session.

Thank you for listening today!

Larry Fry
CARE Legislative Chair