

**BOARD OF HEALTH PROFESISONS
REGULATORY RESEARCH COMMITTEE
PUBLIC HEARING
AUGUST 18, 2004**

TIME AND PLACE: Called to order at 9:05 a.m. at the Department of Health Professions. The purpose for the hearing was to receive public comment pursuant to its study into the need to regulate directors of assisted living facilities.

PRESIDING CHAIRMAN: Mary Smith, NHA., Presiding Chair

MEMBERS PRESENT: David Hettler, O.D.
Alan Mayer, Citizen Member

STAFF PRESENT: Robert Nebiker, Agency Director
Emily Wingfield, Assistant Attorney General, Board Counsel
Elizabeth A. Carter, Ph.D.
Elaine Yeatts, Senior Regulatory Analyst

OTHERS PRESENT: Beverley Soble, VA Health Care Association/VCAL
Joan Chupik, VHCA/VCAL
Drema Lockhart, VHCA/VCAL
Dana Steger, VA Association of Non-Profit Homes for the Aging
Tom Wilkinson, M.H. West & Co., Inc.
Andrew Carle, George Mason University
Dana Traynham, VOPA
Diane Peterson, Chesterfield County Senior Advocate
Barbara Jenkins, VDSS
Jason Wilkins, Comfort Care Home, Richmond
Johnnie Lattimer, Long Term Care Osbudsman

PUBLIC COMMENT: The public comment transcript has been incorporated into the minutes as Attachment 1.

COMMITTEE RESPONSE: Dr. Carter briefed the Committee of the workplan study scope, methodology and timetable.

Dr. Hettler requested additional information for review on the parallels of Nursing Home Administrators and Assisted Living Administrators.
Mr. Mayer requested that the Committee meet in September to meet the requirements of the timetable. A

meeting of the Regulatory Review Committee has been scheduled for September 24, 2004 at 10:00 a.m.

ADJOURNMENT:

The Hearing adjourned 10:45 a.m.

Mary Smith, NHA, Presiding Chair

Elizabeth A. Carter, Ph.D. Executive Director

ATTACHMENT #1

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HEALTH PROFESSIONS

IN RE: PUBLIC HEARING ON ASSISTED LIVING

AUGUST 18, 2004
ALCOA BUILDING, 6603 WEST BROAD STREET
5TH FLOOR, ROOM 2
RICHMOND, VIRGINIA 23230
9:00 A.M.

1 PRESENT:

2 Carol Stamey, Administrative Assistant

3 Robert A. Nebiker, Director, DHP

4 Elizabeth A. Carter, PH.D.
Executive Director for the Board

5

6 Mary M. Smith, Nursing Home Administrators, Presiding

7 Alan E. Mayer, Board Chair, Citizen Member

8 David H. Hettler, O.D. , Optometry

9 Emily Wingfield, Esquire, Assistant Attorney General

10

11

12

13

14 -----

15

16

17 SPEAKERS: PAGE:

18 CARLE, Andrew ----- 16

19 LATIMER, Joani ----- 56

20 SOBLE, Beverly ----- 3

21 STEGER, Dana ----- 12

22 WILKINS, Jason ----- 48

23

24

25 -----

1 MS. SMITH: The purpose of this
2 meeting is to study the need to regulate directors
3 of assisted living facilities, the Regulatory
4 Research Committee of the Virginia Board of Health
5 Professions is holding this public hearing.
6 Although general comment related to assisted living
7 oversight is welcome, really the primary focus of
8 this hearing is to obtain information relating to
9 public health and safety issues, the fiscal impact
10 which may result from the regulation of this group,
11 and how the activities of the current state agencies
12 which deal with assisted living-related issues may
13 be affected.

14 We have currently four people who
15 have asked to speak. And we're going to ask Beverly
16 Soble with the Virginia Health Care Association to
17 come up first.

18 MS. SOBLE: Good morning, Madam
19 Chairman, members of the regulatory research
20 committee, my name is Beverly Soble, Vice President
21 of regulatory affairs from the Virginia Center for
22 Assisted Living, the assisted living arm of the
23 Virginia Health Care Association, which is the
24 statewide long-term care association.

25 The May 23rd through 26th front

1 page series about assisted living facilities that
2 was published in the Washington Post has certainly
3 been a catalyst for highlighting the need for
4 regulatory change for assisted living in Virginia.
5 That series and subsequent articles in USA Today and
6 the Richmond Times Dispatch has suddenly put ALF
7 operations under the microscope. There's no doubt
8 that there's now increased attention on the need for
9 an in depth look at how assisted living facilities
10 are regulated in Virginia and the need for
11 accountability of those responsible for operation of
12 those facilities. Increasingly residents in the
13 facilities are more frail and vulnerable.

14 Our association is on record asking
15 the Virginia Board of Health Professions to study
16 requiring licensing of assisted living
17 administrators. This action would serve to increase
18 accountability for those caring for those
19 individuals who have responsibility for the delivery
20 and care of services for this vulnerable population.
21 We need to institute a standard of professional
22 practice for administrators and hold accountable --
23 hold them accountable for their actions or their
24 inactions.

25 Administrators should be required

1 to demonstrate the knowledge, skills, and values
2 necessary to provide quality care to residents.
3 While there are currently more than 600 licensed
4 facilities in the Commonwealth with the capacity to
5 care for almost 35,000 residents, there is no
6 regulatory board or authority to which these
7 administrators are accountable to their professional
8 conduct nor is there a standard of practice to which
9 they must adhere.

10 Because there are no federal
11 requirements governing assisted living, each state
12 has the responsibility for regulating their
13 facilities and their administrator. A number of
14 other states have successfully initiated mechanisms
15 for requiring professional standards for the
16 administrators. Virginia has not yet opted to
17 regulate them. Unfortunately it took this front
18 page series to bring to the public's attention the
19 need to carefully examine the current lack of
20 professional standards for Virginia's directors of
21 facilities.

22 We believe it's extremely important
23 to have a system in place to insure that these
24 individuals, who are responsible for providing care
25 and oversight, meet specific qualifications. It's

1 our hope that the Board of Health Professions will
2 recommend licensure of assisted living facility
3 administrators and set standards for education,
4 specialized skills in training, experienced
5 continuing education requirements and professional
6 standards of practice to adequately protect the
7 public.

8 This could be accomplished by
9 expanding the current role and responsibilities of
10 the Board of Nursing Home Administrators by changing
11 it to a Board of long-term care administrators with
12 a change in the Board's mission and a composition of
13 the Board to administer the program. We would be
14 pleased to explore with the Board the possibility
15 also of a Dean status for those individuals who hold
16 licenses as nursing home administrators and also
17 serve as assisted living administrators.

18 Thank you for the opportunity to
19 offer comments today. We stand ready to work with
20 you to require regulation of administrators. I
21 would be pleased to respond to any questions you
22 might have.

23 MS. SMITH: Are there any
24 questions?

25 MR. NEBIKER: Good morning. Have

1 you given any thought to which facilities -- would
2 it be all assisted living facilities you believe
3 should be required to have a licensed administrator,
4 or is there some threshold at which licensure would
5 be required or not required?

6 MS. SOBLE: The response would be
7 that all administrators be accountable in some
8 manner. We've only considered licensure.

9 MR. NEBIKER: Right. For a home
10 of any number of beds?

11 MS. SOBLE: For a home of any
12 number of beds.

13 Any other questions?

14 MS. SMITH: Thank you, Beverly.

15 Oh, I'm sorry. Mr. Mayer.

16 MR. MAYER: Have you considered
17 what the impact might be on the assisted living
18 industry if we had such licensure requirement for
19 the small as well as the large ones?

20 MS. SOBLE: I think the impact
21 would be anaccountability factor regarding -- are
22 you talking about physical impact or are you talking
23 about -- I would think that we would allow a certain
24 period of time in which everyone could come up to
25 meet the standards. We do not even know in Virginia

1 the characteristics of the population because that
2 data is not collected, particularly in the private
3 case sector the State only has information on the
4 public case.

5 MR. MAYER: Is there a possibility
6 that such a requirement would put some existing
7 assisted living facilities out of business?

8 MS. SOBLE: I would respond that
9 that would be the out-cry from some of the
10 facilities. I do not believe it would. I believe
11 that there would be greater public acceptance and
12 that there would be a body to which these people are
13 accountable which now there is not. And I believe
14 that some of them might even welcome the opportunity
15 to have a professional status. There's nothing now.

16 MR. MAYER: Well, along with
17 professional status would probably, wouldn't you
18 agree, be an increased demand for more money from
19 people that held these licenses and therefore might
20 make some facilities economically not viable? Is
21 that a possibility?

22 MS. SOBLE: It's my understanding
23 that there's going to be an effort before us to
24 increase the public pay reimbursement for assisted
25 living facilities. I think that this will in tandem

1 with some of these requirements. Certainly right
2 now for the 20 percent of the individuals in the
3 State who are in facilities that are for public pay,
4 and that's about 20 percent of them, I don't know
5 that that's an issue for them, but, yes, I think if
6 there is increase reimbursement I believe it would
7 have greater acceptance.

8 MR. MAYER: Well, you know, once
9 these people receive -- obtain professional status
10 and they put the certificate on the wall, isn't that
11 almost automatically going to result in demands for
12 higher pay?

13 MS. SOBLE: Are you talking about
14 the facilities that --

15 MR. MAYER: I'm talking about the
16 administrators.

17 MS. SOBLE: I can't answer that,
18 sir. But I will tell you that it's my observation
19 that a good number of the administrators in assisted
20 living facilities are already licensed as either
21 nursing home administrators, as nurses, or in
22 another professional capacity. And that has not led
23 to a greater demand for salary.

24 MR. HETTLER: Can you repeat for me
25 what organization you're representing?

1 MS. SOBLE: I represent the
2 Virginia Center of Assisted Living, which is the
3 Assisted Living Membership of the Virginia Health
4 Care Association.

5 MR. HETTLER: Are nursing homes a
6 part of that organization also?

7 MS. SOBLE: Yes.

8 MR. HETTLER: There doesn't seem to
9 be a big interplay between nursing homes and
10 assisted living centers; is that correct?

11 MS. SOBLE: I think there is in
12 many instances, because there are campuses that have
13 nursing facilities and assisted living and there is
14 the option of moving from one to the other. It's
15 not unusual.

16 MR. HETTLER: Do you think that --
17 my understanding is that if you're going to be
18 licensed as a nursing home administrator, if you're
19 working in an assisted living center that that
20 doesn't count towards the time that you need to get
21 licensed to do that; is that correct?

22 MS. SOBLE: As far as practical?

23 MR. HETTLER: Yes.

24 MS. SOBLE: That is correct. It
25 would have to be in a nursing facility.

1 MR. HETTLER: And I'm just
2 wondering if we should look at, as far as
3 regulation, for regulating assisted living directors
4 on whether there should be more interplay between
5 the directors of nursing homes and the directors of
6 assisted living centers as far as at least the
7 practical. They have to work so long in a
8 particular facility for so long, and I wonder if
9 we're not missing the boat on something like that.
10 And I would ask the Chairman if she has given any
11 thought to that.

12 MS. SMITH: I think I need you to
13 explain more. As far as nursing home administrators
14 doing some role in assisted living or vice versa?

15 MR. HETTLER: Well, as far as the
16 training purposes going to Mr. Mayer's comments
17 about whether it's going to put some people out of
18 business, my understanding is that to become a
19 licensed nursing home administrator you have to have
20 so much time working there before you can get
21 licensed. I believe that's correct.

22 MS. SMITH: That's correct.

23 MR. HETTLER: And if you work at an
24 assisted living center that time doesn't count
25 towards the time you need?

1 MS. SMITH: That's correct.

2 MR. HETTLER: And I'm wondering
3 since you have more experience than I in this and
4 whether we should be looking at combining either the
5 work experience or the time or looking at the scope
6 of licensure on one versus the other, because it
7 seems like there are a fair number of nursing home
8 administrators at work in assisted living. And I'm
9 wondering if there's a lot of difference in the
10 skills needed from one to the other.

11 MS. SMITH: I certainly think
12 that's something we can explore. Right now there is
13 no assisted living standards. So I think we have to
14 implement those first, which I think is the reason
15 for this public hearing. Right now we're just
16 looking at whether to do the study or not.

17 MR. HETTLER: Thank you.

18 MS. SMITH: Okay. Our next speaker
19 will be Dana Steger from the VANHA.

20 MS. STEGER: Good morning. My name
21 is Dana Steger with the Virginia Association of
22 Non-profit Homes for the Aging, VANHA. VANHA
23 represents 18,000 residents and over 100 non-profit
24 nursing assisted living and retirement communities
25 throughout Virginia. VANHA shares concerns about

1 the problems with the quality of care provided by
2 some assisted living facilities in Virginia and
3 recognizes that some of the facilities described in
4 the recent Washington Post articles do indeed exist.

5 However the vast majority of over
6 600 assisted living facilities in Virginia do
7 provide caring, nurturing, safe environments for
8 their residents. However VANHA supports the concept
9 of regulating directors of assisted living
10 facilities in order to attain the highest level of
11 care for residents. If the Board does move forward
12 with regulatory requirements we look forward to
13 providing additional comments and a position once a
14 proposal is developed.

15 However, at this time, we would ask
16 that such requirements not be any more restrictive
17 than they are for nursing home licensure. Therefore
18 any person who meets the qualifications for a
19 licensed nursing home administrator would also be
20 deemed qualified for assisted living facility
21 administrator license. And we would support any
22 additional continuing education requirements
23 accordingly. And we look forward to providing any
24 additional comments on such proposed licensure. And
25 we plan to submit written comments on the questions

1 that are being considered by the committee.

2 And that's all I have. Thank you
3 for the opportunity to speak before you.

4 MS. SMITH: Any questions?

5 MR. MAYER: Are the educational
6 requirements for an assisted living facility
7 director different in any way from a nursing home
8 administrator and, if so, how?

9 MS. STEGER: Yes, they are
10 different for that particular environment. As far
11 as the actual differences I could work with you on
12 that. I wouldn't be able to comment specifically at
13 this time, but because of the nature of the
14 environment they are different.

15 MR. MAYER: So they have different
16 educational requirements?

17 MS. STEGER: They do.

18 MR. MAYER: But you don't know
19 exactly just, even in general terms, how they would
20 differ? Yes. What's the difference?

21 MS. STEGER: Because -- Beverly,
22 would you be able to comment more on the differences
23 between the requirements?

24 MS. SOBLE: Certainly. Well, I
25 don't have the regulations in front of me. The

1 department of Social Services has established
2 educational criteria to be an administrator, and I
3 believe it's either 18 or 21 years old, GED, or if
4 they're an administrator in a higher level -- there
5 are two levels rights now, assisted living and below
6 that is residential. They may have to have two
7 years of post high school education.

8 MR. MAYER: In what field?

9 MS. SOBLE: I don't have it in
10 front of me, sir. So, I couldn't tell you.

11 MS. SMITH: It's on page 13 of the
12 packet that says eight of 37. It's the "regs."

13 The administrator shall have 20
14 hours of training related to management or
15 operations of a residential facility within a 12
16 month period when residents or when adults with
17 mental impairments reside in a facility at least
18 five of the required 20 hours shall focus on the
19 mentally impaired, which is different. The nursing
20 home administrators also have 20 hours a year but
21 they're more broad. They have to be approved by
22 NAP, which is the National Board. But it's
23 management and training basically along with areas
24 of clinical or social work that with the nursing
25 homes. So they're pretty similar.

1 MS. SOBLE: But there's no
2 practical required for assisted living
3 administrators.

4 MS. SMITH: That's correct.

5 MS. SOBLE: And there's no --

6 MR. MAYER: Is a college degree
7 required --

8 MS. SOBLE: No.

9 MR. MAYER: -- in either case?

10 MS. SMITH: No.

11 MR. MAYER: Thank you.

12 MS. SMITH: Any other questions?

13 MS. STEGER: Thank you.

14 MS. SMITH: Andrew Carle with
15 George Mason University.

16 MR. CARLE: Is this set up for
17 PowerPoint?

18 While Dr. Carter sets that up, I'm
19 Andrew Carle. I'm an assistant professor at George
20 Mason University. I'm the director of the program
21 in the assisted living administration. It's the
22 only program of its kind in the United States.
23 Virginia has it, which is nice, and I'll be happy to
24 talk more about that.

25 I have a PowerPoint, because I'm

1 used to talking in front of groups of PowerPoints,
2 but I have some information I want to provide on
3 this, both from the academic side, some information
4 I think is helpful, some studies and information
5 like that; but also as a professional because I've
6 been a health care executive for 20 years. I was a
7 hospital CEO before -- after that I was the
8 executive in a vice president business in one of the
9 top ten assisted living companies in the country.
10 So I have an interest in this both academically and
11 professionally.

12 This will take about 20 minutes or
13 so. I apologize, but hopefully this information is
14 useful. At the outset -- I want to talk a little
15 bit about the media. I'm not going to go through
16 this whole slide because I want to save time, but I
17 do want to talk about the Washington Post series. I
18 did provide to Dr. Carter, and she can get you
19 copies, an article in a column I wrote to the
20 Fairfax addition of the Washington Post.

21 If you haven't seen it it
22 essentially comes down to this. It's a tragedy when
23 bad things happen to good people. I mean we know
24 that. But I've been in health care for 20 years.
25 Bad things happen in nursing homes. Bad things

1 happen in hospitals. Bad things happen in doctor's
2 offices. It's not okay. But what also is not okay
3 is to indict an entire industry. And what we're
4 seeing in assisted living right now is what we saw
5 in nursing homes 40 years ago; this rush for people
6 to come in pronounce it unregulated, pronounce it
7 unsafe, and let's rush out and find some answers.

8 What I'm going to tell you, with
9 all due respect to the nursing home industry, is I'm
10 not sure we got it right that time. And I think we
11 need to get it right this time, because a lot
12 depends on it. Assisted living is actually pretty
13 popular, and it is regulated by the way in all 50
14 states. You never hear about that. It's popular.
15 It's actually grown to out number nursing homes by
16 more than two to one in this country. People need
17 to know that. There's a reason for that. People
18 like assisted living. There has been satisfaction
19 surveys done on assisted living. This isn't
20 something we guess at. That's when I saw a very
21 scientific one done in 1999 that said that 82
22 percent of the people, the actual consumers by the
23 way not the reporters, actual consumers, 82 percent
24 of them says assisted living met or exceeded their
25 expectations. Eighty-three percent said they'd

1 refer a friend, which I think is important.

2 So assisted living is not something
3 that consumers are having this big problem with. I
4 think it does sell newspapers. I can tell you that
5 assisted living has taken the United States -- this
6 is getting kind of global, I apologize -- but what's
7 been perceived as frankly, kind of, a floor model
8 for housing and care of the elderly, it's a world
9 class model. Other countries are actually now, that
10 didn't really like our nursing homes or didn't like
11 our system, other countries are now actually coming
12 to the United States to study assisted living;
13 England, Japan, and Italy, both of which have
14 demographics molded in the United States; Australia,
15 I toured a Russian delegation a few years ago. So
16 you need to know that assisted living maybe isn't
17 such a bad thing. Could be better? Sure. Is it
18 dangerous? No. And so we need to think about that.

19 I do want to talk about licensure
20 and certification because this is really what we're
21 looking at. There's a couple of things I can tell
22 you about licensure that I think are important.
23 First of all no segment of the health care industry
24 requires licensure of administrators other than
25 nursing homes. I was a hospital CEO. I did not

1 have a license. Mr. Singleton is the present CEO
2 over hospital system over in my neck of the woods, a
3 five hospital nationally ranked system. He's been
4 there I think about 20 years. To the best of my
5 knowledge Mr. Singleton does not have a license.
6 There are a couple of good reasons for that. Let me
7 tell you what they are.

8 First of all a principle reason is
9 administrators are non-invasive and non-clinical
10 personnel. In my 20 years as a administrator I
11 never diagnosed anyone. I never put a pill in their
12 mouth. I never invaded their personal privacy or
13 dignity. If that needed to be done I had licensed
14 and certified people to do that. I had doctors. I
15 had nurses. I had pharmacists. I had therapists.
16 I had nurses-aids.

17 Another reason that we see for this
18 is that its really been found to be not appropriate
19 to hold administrators liable for the invasive
20 actions of others. And that's why Singleton doesn't
21 have a license at least in part, other than the fact
22 that he doesn't put pills in people's mouths. And
23 what we know is that the more organizations of
24 people that can be sued what really happens is the
25 more that will be sued. Who would be very, very

1 happy if you had another layer of licensure in
2 assisted living in the State? The insurance
3 companies, at least in the short run, because they
4 could sell more insurance; and the lawyers because
5 they would have one more person to sue. And that is
6 what's happening.

7 We know that there are nursing
8 facilities in Florida that are going out of
9 business. And they're not going out of business
10 because they have a negative operating budget. They
11 are actually making money in operations. They are
12 going out of business because they can't buy
13 insurance for both the facility and the staff. It's
14 expensive.

15 Moving on. There's another reason
16 and I dispute the idea that administrators are not
17 accountable and work under no standards of practice.
18 I used to tell my staff in my hospitals that I was
19 the most regulated person in the building because I
20 was. Because what you see in Virginia, for example,
21 in assisted living is you have 65 pages of
22 regulations covering every department and function
23 for that facility for it to maintain its license.
24 It also has responsibilities for federal and state
25 things like EEOC and American Disabilities and on an

1 on. And what I'm telling you is that the rules that
2 govern that facility govern the administrators. If
3 I couldn't maintain the license of my hospital for
4 my assisted living, if I couldn't get joint
5 commissions, accreditation and on and on and on I
6 was gone. Those rules govern me. Nobody was more
7 regulated than me.

8 So I'd like to share with you that
9 these administrators are not working without
10 standards of practice. They are working under the
11 most intense standards there are.

12 I want to talk about the NAB
13 because I know they're proposing this. This is not
14 a disparagement of the NAB. There's a lot of nice
15 people at the NAB. As you know they've administered
16 the nursing homes exams since 1967. Again, what
17 happened 40 years ago is much of what we're seeing a
18 lot of newspaper stories. Here's what I can tell
19 you. In the period between 1998 and 2000 NAB lost a
20 third of its business because people aren't going
21 into the nursing home administrator business any
22 more. It's too regulated. It's too out of control,
23 and there's other things that they can do. They
24 look at 35,000 assisted living communities in this
25 country, and I don't blame them at all because by my

1 math it's about a ten million dollar business to
2 start in an industry that is going to double in size
3 in the next 30 years, and that doesn't even factor
4 in annual turn over rates of about 20 percent for
5 administrators. So I don't blame the NAB for
6 looking into this. But I think we need to be up
7 front and honest about what's involved.

8 Let's talk about the NAB exam.
9 What you need to know is that it's always been and
10 they can tell you this up front, it's a test for
11 minimum competency in the field. Why is that
12 relevant? Well, because in 40 years there's been
13 not one empirical study, not any empirical evidence
14 to show that that licensing put in place 40 years
15 ago has done anything to improve the quality of care
16 in Richmond. Not one study. And they've done the
17 studies. What we do know is the highest test scores
18 on the exam, big surprise, fall to people who have a
19 college degree. People who already have a
20 Bachelor's or a Master's basically take the exam
21 because they've done four years of college and they
22 can take it and pretty much get through it.

23 We have seen some evidence of
24 something to the effect of the opposite and that's
25 what we call regression to the lowest common

1 denominator. Over four years what we've seen is
2 what was originally intended to be a minimum
3 competency exam has actually gravitated to become
4 the competency. And I have talked to nursing home
5 administrators, good ones, who have told me they are
6 very proud of their license and how great they did
7 on the exam. And what I share with them: "Did you
8 know it's a minimum competency exam?" Some of them
9 are actually stunned to learn that. It's not their
10 fault, but that's what happens over forty years.

11 So I'm not sure that a minimum
12 competency exam that has no empirical evidence of
13 improvement helps. I can tell you that in the case
14 of the assisted living exam you can complete it if
15 you take the four hour review course, where in South
16 Carolina where they are actually using the assisted
17 living exam, you don't even have to take the review
18 course. For \$130 you buy the NAB study guide and
19 then you can take the test. And what I'd like for
20 you to consider here is, is that what we want. Is
21 that a sugar pill to say that somebody goes to the
22 Hampton Inn for five days for a seminar, but they
23 buy a study guide and they take a test and now we
24 say they're okay to run a building. See I'm not
25 sure that testing people and setting them up at

1 minimum competency really accomplishes anything.
2 And if there's evidence of that then we should see
3 it.

4 There are some other issues with
5 the NAB exam for assisted living. And this
6 specifically goes to a question that was raised.
7 Are assisted living and nursing homes the same
8 thing? And you know what, they're really not.
9 They're not. The NAB exam follows the exact same
10 format as the nursing home exam. The problem with
11 that is that assisted livings do not follow the
12 exact same format as nursing homes. I'll give you
13 an example. One of the recommended study guides is
14 a nursing home test actually. It's been updated to
15 say assisted living. It has an entire chapter in
16 medicare reimbursement. This is the study guide for
17 the test. Medicare isn't reimbursed for assisted
18 living. So what's not in that text is any
19 information or very little information on the
20 hospitality services or marketing.

21 Now we know hospitality services
22 are important to people in assisted living. This is
23 the number one thing that attracts them to it. I
24 also know, and we're trying to do some studies on
25 this at George Mason, that probably half the

1 complaints we get about assisted living actually
2 have less to do with the quality of care that's
3 provided than miscommunication up front to the
4 families about what actually is provided in assisted
5 living. So I mean I don't know about the stories in
6 the Washington Post but most of the problems that I
7 see in assisted living have to do with poor
8 marketing, poor representation of what this product
9 actually is. And we're doing some studies in that
10 ourselves.

11 But what I'm saying is that you
12 won't find that information in the NAB exam. Now we
13 dedicate an entire portion, not a chapter, not a
14 lecture, an entire semester to sales and marketing
15 in assisted living in our graduate program, an
16 entire course. That's how important we think it is.

17 Finally, just to nit pick things,
18 they have on their website ten sample questions for
19 their assisted living exam. About a year ago I
20 clicked on and took that test. I'm pretty sure I
21 got all ten except the computer said I got nine.
22 And I went back and looked and actually one of their
23 answers is mis-recorded. And I checked it again two
24 days, and it's still not right.

25 So I don't think that we can just

1 say here's an exam, we're the NAB, we came up with a
2 test for assisted living, problem solved. I really
3 think we need to take a hard look at that. And
4 again I'm not trying to disparage nursing home
5 professionals. I've majored in long-term care.
6 They are hard working people. But you know what,
7 they're tired of the regulations.

8 Certifications; let's talk about
9 that real quick because that's the other choice.
10 There are about ten states that offer certification,
11 not licensure. I know this because Dr. Carter put
12 it in her PowerPoint and I stole it but I am
13 sourcing you now. Some states offer their own
14 training. That's at their own expense. They have
15 to create the training. They have to run it. There
16 is an expense to that on the State side. I can tell
17 you there's at least one private national
18 organization that offers training, and it's approved
19 in several States. One of the issues of
20 certification is pretty much the same thing. We
21 have to look at the academic integrity and the
22 professional integrity of these things, not just
23 putting the sugar pill on it.

24 Many of these certification courses
25 can be completed in a couple of hours or days. It

1 goes back to the same question as previously. Does
2 that really make it better, or does it really just
3 lower the denominator? Does the training intend to
4 substitute these courses for actual education and
5 experience? We see that regression. Our problem
6 with the national course work is it's actually
7 pretty good information, but it's a mail order
8 course. You send away for it in the mail and you do
9 it online. And it's completely self-taught and
10 self-tested. So what happens is you go to your
11 computer and you click through the pages. Now it's
12 supposed to be a forty hour course and if you were
13 really dedicated and interested you probably would
14 take forty hours for that information. But the
15 reality is that you can click forward to the
16 self-test at the end of each chapter, click back,
17 find the answers, click forward and fill them in,
18 and probably there's no one in this room who
19 couldn't complete that course in a day or afternoon.
20 You just can't say buy a study guide, take a test,
21 go online, do a correspondence course, and now
22 everything is better. I just really caution you.

23 Licensing and certification
24 overall; I think these are the problems we're
25 finding. First of all I think they provide a false

1 sense of security as I've just indicated. I think
2 consumers think a person has a license, they don't
3 know that they bought a study guide and took a test.
4 I think administrators maybe over time begin to
5 think that has more weight than it really does. I
6 think providers might get a false sense of security
7 and I think government gets a false sense of
8 security. I think it adds an additional layer of
9 bureaucracy and expense to the system. You guys are
10 looking at that. It is expensive. The NAB exam, if
11 the study guide is \$130, the test is a couple of
12 hundred dollars; you're looking at four or \$500 to
13 get into it. In South Carolina those administrators
14 have to pay \$125 every year to renew their license.
15 That's \$125 every year for as long as you're in the
16 profession for a minimum competency test. I think
17 it's good for the NAB. I think it's good for the
18 certification organizations. I think it's good for
19 the lawyers. There is no proven academic or
20 professional integrity in these quick fix, take an
21 exam, take a certification course. Now I know that
22 sounds like an academian talking, but that's the
23 reality. And I've shown you where there have been
24 studies that have not shown that it's done anything.

25 MR. MAYER: Excuse me. How do you

1 spell bureaucracy?

2 MR. CARLE: I'm not sure. Spell
3 check did that. I think the spell check couldn't
4 find it.

5 MR. MAYER: If you're going to slam
6 it you'd better spell it right.

7 MR. CARLE: Yeah. I'm sorry.
8 I typed it about three times, and
9 I'm not sure the spell check could find it.

10 Actually the administrators what
11 this comes down to and then I'll conclude, what
12 administrators need and what hospital CEO's need and
13 what accountants need and what teachers need, you go
14 to school for this. That's what I think you need to
15 look at. This needs to be a profession, not a quick
16 fix. And they need to have the right amount of
17 experience. There was a study done at the
18 University of Albany. It just came out last month.
19 I thought it was interesting. They created a 100
20 point index for nursing home administrators.

21 Now what they did for the first
22 time was they said this is a 100 point index with
23 what we think makes the best nursing home
24 administrator. And here's what's very interesting
25 on that. Only 13 percent of that was weighted

1 towards licensing. And that was based upon feedback
2 from actual practicing nursing home administrators.
3 They said they think licensing is worth about ten
4 percent. And the NAB was involved in the study as
5 well so if anything that number might be skewed up a
6 little. Eighty-seven percent, which is more
7 telling, was weighted towards education and
8 experience. And if there were regulations it was
9 only regulations to insure that they had the right
10 education and the right experience. Now this is the
11 study of the nursing home regulation.

12 What I can tell you is this. I've
13 got three suggestions. First of all if you're going
14 to test people, fine, but test them on the
15 regulations that are already in place to govern
16 them. You don't need to add new ones. I did this
17 with my company in Summerville. I created a 100
18 question multiple choice, 100 question test on the
19 Virginia regulations for assisted living
20 communities. And what I told these administrators,
21 and we never hired anybody with less than a
22 Bachelor's degree, and what I told them was is we're
23 not going to give you an eight or ten million dollar
24 building until you show me that you know the rules
25 that govern you.

1 So if you want to test people you
2 don't need to go to out-source it you can do this
3 yourself. I would volunteer to help you write this
4 test. I already did it once. But what I'm saying
5 is let's test them on the rules that are already in
6 place for them. You don't need to add another
7 layer. And you don't need to do anything different.
8 Make sure they know the rules. Thirty-eight states
9 in the district already do this even for nursing
10 homes. I think it would eliminate a lot of your
11 current problems, and I think it should apply to
12 every single administrator in the state. But let's
13 just test you on the 66 pages of rules we already
14 have for you. We actually have 66 pages of
15 regulations in this state for administrators to
16 follow. We just need to test them on it. And I
17 think that's a better answer in a lot of ways.

18 Use education experience as the
19 most important factors as I said. These are the
20 current Virginia requirements for assisted living.
21 You guys were asking a second ago. There is
22 residential living, there's also assisted living.
23 I've got to say with the residential living you guys
24 have a very nice course in this State offered by a
25 guy name Irvin Lamb. He has it. He was teaching at

1 a community school. Now he does it privately. But
2 I think when you get to assisted living you need to
3 maybe think about upgrading it. Right now you've
4 got to be 21 years old. You've got to have two
5 years of college or you can have one year of college
6 in human services or administration or a department
7 of a curriculum. I think that should be university.
8 You have to have one year of experience in a group
9 home.

10 Let me tell you what I think might
11 be something to consider. I'm not saying you should
12 do this. But, for example, should administration or
13 health care administration course work be required
14 for anything above residential living? In other
15 words right now when you say it you've got to have
16 two years of college. Well, a person could have
17 studied botany for two years and have two years of
18 college. When you really get to that assisted
19 living level I think the question becomes is that
20 really sufficient. So they study botany for two
21 years, they didn't even graduate, they bought the
22 NAB study guide, they took the test and passed it,
23 and they also drove the van at an assisted living
24 for a year. On your current regulations they can
25 now run a building. I'm not sure that gets it done.

1 So I think you've got to consider
2 whether or not three to nine credit hours of course
3 work for health care administration is an
4 unreasonable request of people at the assisted
5 living level. I'm not even saying they have to get
6 a college degree. We offer a graduate certificate;
7 five courses, 15 credit hours. But you know what
8 they're college courses. They're graduate level
9 courses approved by a university, and there is some
10 work involved in that.

11 But is that unreasonable to ask
12 when you get to that assisted living level? I'm not
13 sure. It helps people who don't have a degree, have
14 a degree in botany, or for example a lot of people
15 have degrees in nursing and have no background in
16 administration. This is the kind of thing that
17 maybe should help them get to that next level.
18 We've seen a lot of nurses in assisted living try to
19 become administrators, and it doesn't often work.
20 Some times it does because they are born leaders.
21 Some times it doesn't because as it turns out that's
22 why they became nurses, they didn't want to be
23 administrators. So I think if you want to be an
24 administrator maybe the professional coach would be
25 that you've got to be willing to study

1 administration.

2 Finally, when it comes to
3 experience, maybe that one year experience should
4 require health care supervisory experience rather
5 than just group care facility experience. I think
6 it's kind of nebulous in your regulations right now.
7 What you say is one year experience in a group home.
8 Well, driving the van? Answering the phones?
9 That's a big leap to becoming the administrator. I
10 think, you know, maybe that should be for the
11 assisted living level at least, maybe you should
12 require supervisory health care experience. They do
13 manage people if you have any budget.

14 Last on the suggestions, if you're
15 using education to fill in the gaps, and this is
16 what I've been saving, let universities and colleges
17 do the work for you. States shouldn't have to pay
18 for this. You shouldn't have to put together a
19 course. You shouldn't have to administer all these
20 other things. This is why we have universities.
21 And universities put together 16 week, whole
22 semester courses with lectures, with tests, with
23 exams, with assignments. Right now this State
24 offers the only curriculum in the United States in
25 assisted living at George Mason University. Of all

1 the states in this country you're one who actually
2 has a pretty good answer here already. And it's not
3 just George Mason; VCU, JMU, Mary Baldwin, they all
4 have courses in health care administration.

5 So should a person take a 40 hour
6 course and take a test and run a building, or should
7 they go to college for a semester? That's the
8 question.

9 In summary I think we need to avoid
10 a rush to conclusions. I don't think that we can
11 let the media and special interest groups rush into
12 assisted living. And that's what they're doing, and
13 that's what they're going to do. But that doesn't
14 mean that we should let them rush into assisted
15 living and repeat what happened in nursing homes.
16 Nursing homes were supposed to be something
17 different than they became. They were never
18 supposed to be that. When I came in the business
19 there was no assisted living. People lived in
20 nursing homes, and they were called residents. They
21 lived there. That was their home. But something
22 fell awry along the way and what happens is we can't
23 rush these conclusions because, frankly, somebody at
24 the Washington Post wants to get his Pulitzer
25 submitted. We have to look at the facts and make

1 sure if we come to conclusions they're the proper
2 conclusions. And we can't let special interest
3 groups that have a financial interest run it and
4 say, well, here's what you need to do and we just
5 happen to have the test, whether that test is
6 appropriate or not. I think we need to avoid the
7 rush to quick fixes.

8 These courses are not the same as
9 going to college. And obviously I keep coming back
10 to that. The bottom line is this. I think we need
11 to establish assisted living as a profession. You
12 can be a teacher in life. You can be an accountant.
13 You can be a nurse. You can be an assisted living
14 administrator or health care administrator. All
15 those things are professions. I'm way more proud of
16 my degree in health care administration than I am of
17 anything else. I don't need a minimum competency
18 test to tell me how hard I worked in graduate school
19 or actually to tell me how to run a hospital where
20 it wasn't required.

21 We need to elevate the profession.
22 We need to test them on the rules that are in place
23 for them and make sure they know them and then we
24 need to look at how they're going to go to college
25 and become better at it.

1 And I think that's it. So thank
2 you. I actually did better time wise than I
3 thought. And I'm sorry about the bureaucracy I just
4 don't know how to spell it.

5 MS. SMITH: Thank you. Before we
6 go to questions I have one point of clarity. On the
7 assisted living "regs" it does say you only have to
8 have one year of post-secondary education or at
9 least one year of administrator or supervisory
10 experience in caring for adults.

11 MR. CARLE: That's correct.

12 MS. SMITH: So you could not
13 currently drive the van. You had to be a supervisor
14 or something.

15 MR. CARLE: Well, no, it says you
16 have to have, unless I'm wrong, two years of college
17 "or" one year.

18 MS. SMITH: No. It says one year.

19 MR. CARLE: Is it "and" or "or"?

20 MS. SMITH: It's one year from a
21 secondary education "or" at least one year of
22 administrator experience. Is that correct?

23 MR. CARLE: I'm sorry. I was
24 talking about the AL level. I'm sorry. Page 51.

25 MS. SMITH: Okay.

1 MR. CARLE: Most of my comments,
2 what I'm saying is residential living is really
3 completely different.

4 MS. SMITH: Okay.

5 MR. CARLE: I think it's assisted
6 living where we really need to look at the
7 profession.

8 MS. SMITH: Okay. We were reading
9 the wrong page.

10 Are there any questions?

11 MR. NEBIKER: I've got one or two.
12 You seem to equate licensing with an examination.
13 I've been doing the freshman regulations for 30
14 years. I've never had that understanding.

15 MR. CARLE: Okay.

16 MR. NEBIKER: Licensing says it's
17 a legal term and it says in order to engage in these
18 acts you must hold a license. It doesn't say
19 necessarily that you have any training, education,
20 experience or pass an examination. That's the
21 Virginia legal way that plays out. That you require
22 two years of college in order to do ceratin things
23 that's a license even though there may or may not be
24 a test.

25 As I understand your presentation,

1 given that term, it is my understanding, accepting
2 that definition of licensing, your concern is that
3 it seems to be that it should be the exam that's the
4 or an exam possibly, at least not the NAPD exam,
5 should not be the criteria by which a license would
6 be issued; is that correct?

7 MR. CARLE: If I understand your
8 question, yes. Because what I'm saying is that
9 there are different ways to be licensed.

10 MR. NEBIKER: Right.

11 MR. CARLE: I think we're saying
12 the same thing. And what I'm saying is that people
13 use the word license and that sounds good. In fact
14 my wife said that to me last night at dinner, and I
15 said, yes, but you have to understand what that
16 means.

17 MR. NEBIKER: Right.

18 MR. CARLE: And what we're talking
19 about for assisted living is in South Carolina where
20 they are using the NAB exam for assisted living -- I
21 think one of the three or four states that is --
22 there's no review course. There's no college
23 course. You can buy their book for \$130. Now,
24 granted, that means you have to sit down and read
25 it, probably spend a little time in order to pass

1 the test. But that is the perimeter by which if you
2 then sit down and pass that test you can be
3 licensed. And what I'm saying is that that becomes
4 kind of this quick fix, what I call this kind of
5 sugar pill response to solving the problem.

6 The media likes the way it sounds.
7 But we have to look at it as professionals. Is
8 there any academic integrity in that? But also is
9 there any professional integrity in that? You know,
10 would I turn my building over to that person? I was
11 in the business. We built very nice buildings. I'm
12 not sure I would turn my building over to that
13 person. What I'm looking for is did you go to
14 college, are you taking this seriously, do you
15 understand what you're getting into, have you ever
16 had an accounting course, do you understand what
17 you're getting into; because it's expensive to me to
18 have these people fail. And it's expensive to the
19 residents when things go wrong. And on a personal
20 level it's harmful and dangerous to them.

21 So I just think that you know, and
22 again what we saw in the nursing homes was is after
23 40 years there is just not one study that shows that
24 that licensing had never existed, maybe early on it
25 may have made a difference, but as we stand here

1 today most people would tell you, you know, it's
2 kind of an extra layer.

3 MR. NEBIKER: Does a study exist
4 that demonstrates that having obtained college
5 course work?

6 MR. CARLE: Yes, I think the Albany
7 study basically says that. The Albany study says
8 look the people who scored the highest on the exam
9 have Bachelors and Masters degrees almost always in
10 health care administration. Well, I mean it's not a
11 big surprise.

12 MR. NEBIKER: On which exam was
13 that?

14 MR. CARLE: The NAB nursing home.

15 MR. NEBIKER: Do you know if
16 that's a criterion related examination?

17 MR. CARLE: It has categories and,
18 I mean, there are better people to speak to that
19 than me. Basically they have five or six categories
20 they created originally for nursing homes.

21 MR. NEBIKER: One more technical
22 testing question. Do you know if the NAPB exam, and
23 we'll find this out, they have one exam for nursing
24 home administrators and one for assisted living
25 facilities; are they based on separate job analysis?

1 MR. CARLE: You'd have to ask them.
2 What I can tell you is that the assisted living exam
3 they devised follows the same format as the nursing
4 home one, number one. Number two, not just me but
5 when a lot of us in the profession saw that we went,
6 no, they are different things. And I'll give you an
7 example from operations. We hired some people in my
8 company. That's 67 buildings. And we hired some
9 nursing home administrators and they were very, very
10 good. We also hired some nursing home
11 administrators who could not make that transfer from
12 this very bureaucratic regulated environment to this
13 very hospitality focused environment, I mean linens
14 on the table and fine china and these things that we
15 put a lot of value in. So what I'm saying is that
16 to make the assumption that you can make that leap
17 I'm not sure is true, number one.

18 Number two, a NAB exam was set up
19 to follow the same format. And what we said in the
20 field was where's the hospitality? Where's the
21 marketing that's so critical? I'm not talking about
22 building the building. I'm talking about the ethics
23 of marketing, of private sale exchange. And this
24 stuff didn't appear because they follow the same
25 format and again the example I gave you is that

1 they've got a study guide with a chapter on
2 Medicare. For us in the field to look and that and
3 go why would I have somebody studying a chapter on
4 Medicare? We just can't say that's the answer.

5 And I want to tell you one more
6 thing with the NAB. One of the recommendations is,
7 and I think this is very dangerous, is that they've
8 got a national recommendation that says that there
9 will be a national licensing requirement for
10 assisted living administrators. What the
11 recommendation says is that any administrator in
12 assisted living who refuses to take the exam and
13 within six months can be replaced by a licensed
14 nursing home administrator who has never even taken
15 the assisted living exam. That's what it says. Now
16 let's think about that. I was an executive in
17 assisted living and a hospital CEO, and whatever,
18 and have a Master's degree, but that says that I
19 could not work in -- I could not run an assisted
20 living community unless I took that exam. Minimum
21 proficiency. And if I refused to take it I could be
22 replaced by a nursing home administrator who has
23 never worked in an assisted living community in
24 their life. Now that's not fair. I don't think
25 that legal. But that's what they've recommended

1 nationally. And there was at least one draft
2 proposal in this State that had something like that
3 in there but I think has since disappeared.

4 But, I mean, we can't have a system
5 where the NAB benefits and the nursing home
6 administrators they all benefit and assisted living
7 administrators have to take a test that isn't even
8 maybe appropriate to the discipline and they have to
9 do all these things. First of all I don't think
10 there's that big a problem with the administrators
11 in this State. I think most of them, especially at
12 the assisted living level, probably have a
13 Bachelor's degree any way. The national study
14 showed that I think 65 to 70 percent of these upper
15 level communities have at least a Bachelor's or
16 Master's degree any way.

17 So I know it's a lot of information
18 but it's also a lot of food for thought.

19 MS. SMITH: When you saw these
20 upper level communities, are you talking about Sun
21 Rises --

22 MR. CARLE: No. I'm talking about
23 what in this State you define as assisted living
24 where you've got that little extra level of acuity.

25 MS. SMITH: I just have a couple of

1 questions. You're recommending education versus
2 licensing, and I understand where you're coming
3 from. What about the four to eight bed homes that
4 are currently --

5 MR. CARLE: I really thought about
6 that and you guys have more information on that than
7 me. I think that it was probably one day the
8 thought, okay, you know what, I'd say if an
9 operation has more than a million dollar operating
10 budget then I think that's a whole other category as
11 a business person. Another side of me thought,
12 well, but even if you have 12 beds and you call
13 yourself assisted living and you can meet those 66
14 pages of rules, why aren't you?

15 First of all I think it's very hard
16 for them to meet the 66 pages of rules. But if they
17 can is it appropriate for us to then penalize them?
18 So I'm kind of torn on it. I think it's something
19 you'd have to look at. I think in general what you
20 find is those smaller shops, when you get to that
21 page 51 and up in your "regs," really can't do that
22 supplemental stuff and a lot of them don't. I may
23 be wrong about that.

24 What I'm saying is is whether you
25 do it by the size -- 30 residents or more is going

1 to be about a million dollar budget. Whether you do
2 it by the size or the operating budget or whatever
3 you have 66 pages of rules and I guess what I came
4 down to was, look, if a person can meet those 66
5 pages of rules, those are pretty good rules in this
6 State. They're not really unfair. They're not
7 overkill, and they're not really under kill.
8 They're actually a pretty solid set of rules you
9 have in this state. And if a person can meet them
10 then maybe that is assisted living. But they've got
11 to meet them, and they've got to show they know
12 them.

13 MS. SMITH: Okay. My other really
14 just for your explanation, you're saying that since
15 hospitals CEO's are not licensed assisted living
16 should not be licensed?

17 MR. CARLE: No. The point I was
18 trying to make is nobody in health care is licensed
19 except nursing home administrators, which is
20 something a lot of people don't think about.

21 MS. SMITH: How many assisted
22 living is the administrator feeding, caring for the
23 residents versus what Singleton does?

24 MR. CARLE: I don't know. I think
25 you need to look at that. My point was this, they

1 should be non-invasive and that is a very solid
2 point. They should be non-invasive. If they're
3 acting in an invasive capacity then maybe you need
4 to clarify that. I never fed anybody. I never
5 chopped up anybody's food. I was not going to go
6 there. That didn't mean I didn't help out to clear
7 the tables. But I mean even in hospitals the dining
8 room staff are licensed either. The support staff
9 is administrative staff and there's clinical staff.
10 And in hospitals you find a whole bunch of people
11 who don't have a license, a whole bunch of
12 department heads and a whole bunch of
13 administrators. But they know the rules.

14 MS. SMITH: Are there any more
15 questions?

16 MR. MAYER: Do you have copies of
17 your presentation?

18 MR. CARLE: I e-mailed it to Dr.
19 Carter, and I'm sure she can provide it.

20 Thank you.

21 MS. SMITH: Thank you.

22 Is there anyone else who wishes to
23 speak at this time?

24 MR. WILKINS: I'm Jason Wilkins.
25 And I'm the owner and director of Comfort Care Homes

1 in Richmond. And I just wanted to mention something
2 quickly about the smaller environment that would be
3 affected by anything that has to do with the
4 assisted living "regs." We own five homes in
5 residential neighborhoods and we generally just have
6 five people in each home. We have -- I'd like to
7 first tell you my background. I'm a history major.
8 We started this company and learned everything from
9 my nurses.

10 Am I a little bit too close to that
11 microphone?

12 MS. SMITH: No.

13 MR. WILKINS: Okay.

14 Anyway, the two problems we have
15 are keeping our homes full. And our problem is in
16 dealing with the State because whenever the big guys
17 screw up we have to -- the new "regs" that come out
18 are written specifically for the bigger guys. It's
19 hard to take us into consequence because we're the
20 only place now in the State that has secure locks
21 and only five people. So, just as an example, last
22 year we were told that we needed two people on 24
23 hours a day.

24 Anyway, let me get past the
25 regulation stuff and just get to the point. The

1 reason why we're able to give good care and the
2 reason why we were able to get an exception this
3 year from the State, which might be the first
4 staffing variance in the history of Virginia, was
5 because we're accountable to details. We have a one
6 to five ratio, 24 hours a day, and it works.

7 I don't think that my background
8 has been -- has anything to do with the care that we
9 give, but we had 54 family appearances at three
10 hearings at the general assembly this year. They
11 took their time to come out and testify that a
12 smaller model works. What the issue that we're
13 talking today about, it's not going to make or break
14 us in terms of whether we can stay in business, but
15 it is a movement towards making it very difficult
16 for us to give good care because it complicates, it
17 makes us spend more money. And when you've got a
18 one to five ratio and people are taking ownership in
19 these homes that is the main criteria I think that
20 makes our families so excited to use us. That has
21 nothing to do with my knowledge of a colostomy bag
22 or, you know, if I can get that right that's what
23 assisted living should be about.

24 And we are actually at a higher
25 acuity level because we just deal with people with

1 dementia. People that are lucid go to a big place,
2 you know, get as many activities as you can, but if
3 you have a specific memory loss situation we just
4 don't think it's a kind model to wake up to 50 faces
5 every day. So that's our reason for being in
6 business.

7 But I'd just like to encourage you
8 to at least take us into account insofar as that
9 dynamic of taking care of the details I think
10 creates good assisted living care and everything
11 else -- it's not that everything else is good, I
12 just don't know if it directly deals with the
13 issues.

14 And the things that happened in the
15 Post, I mean, even the worse things that happen
16 happened because I think people didn't have their
17 eye on the ball. I don't think it had anything to
18 do with whether they went to a certain school or
19 whether they took a certain type of exam.

20 Any questions?

21 MS. SMITH: Any questions?

22 MR. HETTLER: Yes. I have a couple
23 of questions. You have one staff member for five
24 residents?

25 MR. WILKINS: Yes.

1 MR. HETTLER: And you have five
2 residents at one home; is that correct?

3 MR. WILKINS: Yes.

4 MR. HETTLER: What do you do in the
5 middle of the night when a staff member doesn't show
6 up? How do you cover any shortages of staff?

7 MR. WILKINS: We have PRN, a
8 part-time list of about 20 people that can come in.
9 Our nurse and actually I can go in as well and cover
10 if there's like a really true family emergency. Our
11 folks work 24 hour shifts. So we only have two
12 people on in typically for a three to -- they don't
13 do two twenty-fours in a row, but they actually --
14 we have two full time people working six days out of
15 seven. And maybe I shouldn't get too much into
16 details, but the bottom line is that if somebody
17 from the administration can't cover a shift we also
18 have two or three people in the agencies that we've
19 trained and we have ready to go if our own folks
20 can't cover.

21 MR. HETTLER: If your people work
22 24 hour shifts are they sleeping at some point
23 during that 24 hours?

24 MR. WILKINS: It depends. We have
25 two homes with eight that we've extended, and if we

1 have people with needs who don't sleep through the
2 night we move them to an eight person home, and we
3 have somebody up for a 12 hour shift. The people
4 who are in a five person home they are up every two
5 or three hours to do bed checks. But you have to
6 remember these folks they have memory loss. They
7 don't necessarily, you know, they don't get up. We
8 know our residents. But basically they sleep.

9 Our care givers sleep at night
10 unless they're needed for the five people.

11 MR. HETTLER: Do you lock the doors
12 so they can't get out?

13 MR. WILKINS: Yes. Well, we have a
14 secure door in the front, and we have large fenced
15 in back yards. So you can't get out without
16 somebody giving you the code.

17 MR. HETTLER: Do your facilities
18 meet all the requirements that are in this document
19 of rules and regulations?

20 MR. WILKINS: Yes. Well, we do.
21 We just got an exception to one of those rules this
22 year that went into effect July 1.

23 MR. HETTLER: So I have 37 pages.
24 There's a lot of pages here. Does your facilities
25 meet all the requirements that are in here?

1 MR. WILKINS: Everything.

2 Everything.

3 MR. HETTLER: Are you telling us
4 that you're opposed to having the directors of your
5 facilities regulated?

6 MR. WILKINS: Regulated with this
7 new -- regulated just in general, or regulated with
8 this new provision to have a licensed administrator?

9 MR. HETTLER: The new one.

10 MR. WILKINS: I'm not excited about
11 it, but like I said we've got bigger fish to fry
12 with -- it's not the top two or three things that
13 are keeping me up at night, but it's a movement
14 towards I think adding expense to our operation and
15 writing it for the bigger places as opposed to maybe
16 solving issues that are happening in our homes.

17 MR. HETTLER: What are the top two
18 things that keep you awake at night?

19 MR. WILKINS: Stevens is
20 probably -- I'd like to say --

21 NOTE: Laughter.

22 MR. WILKINS: Basically I would
23 like to say the regulations I agree with the speaker
24 before. The regulations are good. There's
25 nothing -- you can't really grab those regulations

1 and say those are bad. The main thing that worries
2 me is when somebody gets caught in a bigger facility
3 and the State says let's create a special
4 legislative package to address this issue, because
5 usually that issue is not our issue, but we have the
6 same license so, you know, we may have to protect
7 our legislation that we passed this year. And the
8 other thing is probably just because we're
9 integrated into the neighborhoods we don't have
10 signs. So keeping the beds full is also the other
11 part that keeps up in business.

12 MR. HETTLER: Thank you.

13 MR. WILKINS: You bet.

14 MS. SMITH: Are there any other
15 questions?

16 Thank you.

17 MR. WILKINS: And can I just say
18 that for the people like us who are trying to exceed
19 the things that we think might be lesser, trying to
20 exceed people's expectations, I just ask that you
21 take that into account. Thanks.

22 MS. SMITH: Thank you.

23 MS. LATIMER: Thanks for the
24 opportunity to just make a brief comment. I'm Joani
25 Latimer with the State Long-term Care Office and we

1 are submitting written comments in support of the
2 idea of licensure of assisted living facility
3 administrators. I just felt the need to respond
4 just a little bit to a couple of things that came
5 out of Mr. Carle's presentation. I think one of the
6 things we have been cautioned here this morning, you
7 know, not to let the pressure of media and special
8 interest groups kind of rush us into some
9 conclusions and quick solutions on this thing. And
10 I'm the first one not to necessarily want a quick or
11 a simple solution. I think it's a multi-faceted
12 problem that we're looking at, but I think that the
13 licensure pieces are a very important part of that.
14 And frankly the special interest groups that are
15 pushing that along I don't think are the media or
16 some limited group out there, they're the residents
17 and the families.

18 From my experience we've just been
19 seeing many of the problems that we saw very
20 dramatically exposed in the Post series on a day to
21 day basis in facilities. And frankly to be
22 concerned about this option leading to some minimal
23 standard of qualifications would be a relief to me,
24 Residents and families who would just like to see
25 some bottom line. At least that's a necessary first

1 step to getting some level of professionalism and
2 education as a standard, as a given, among those who
3 are ultimately responsible for caring for some folks
4 who are pretty fragile and have some incredibly
5 complex needs.

6 And just the last thing I would say
7 is that I understand the argument about the value of
8 education and preparation as being the most
9 meaningful avenue to getting to some guarantee of a
10 quality of care. That's great. But I think there's
11 also -- there's a difference between creating
12 preparation and the opportunity therefore and
13 allowing some basic accountability in a system. And
14 that's really what we've lacked.

15 I have talked with so many family
16 members who have had just outrageous experiences and
17 this was certainly not reflective of the whole
18 industry. There's no question. But it is a reality
19 that's out there in far too many numbers. And those
20 folks, at the end of these discussions, want to know
21 why is there not somebody to whom the person who
22 runs this place is accountable so that there's an
23 oversight on the part of the State to actually
24 protect the individuals who can't stand up for
25 themselves and are extremely vulnerable.

1 So that I just wanted to briefly
2 kind of respond to what was said this morning and
3 share more detailed comments in writing with all of
4 you all. I appreciate the struggle that you're
5 having and looking carefully at the issue.

6 MS. SMITH: Does anybody have any
7 questions?

8 MR. NEBIKER: Do you keep track of
9 complaints you get?

10 MS. LATIMER: We do.

11 MR. NEBIKER: From that?

12 MS. LATIMER: Yes.

13 MR. NEBIKER: Can you share that
14 information?

15 MS. LATIMER: Definitely. In our
16 written comments, yes, I'll be glad to share a break
17 down of kind of the types of complaints that we have
18 and the numbers across the assisted living venue.

19 MR. NEBIKER: Thank you.

20 MS. SMITH: This is just and it's
21 probably antidotal, but part of the licensing of
22 assisted living administrators provides for a
23 registry, for lack of a better word, as the nursing
24 home administrators and CNA's currently have. So if
25 there is a violation it is public and there's not so

1 much of a moving from one facility to another if
2 there were problems in one facility. Do you know
3 anecdotally if that's the case at this point where
4 administrators may move from one facility to the
5 other?

6 MS. LATIMER: I think I can say
7 very confidently that we've experienced a lot of
8 problems in that regard. And there's been a very
9 limited avenue to effectively and certainly timely
10 deal with that before other residents are placed at
11 risk.

12 MS. SMITH: Thank you.

13 Is there anybody else who wishes to
14 speak?

15 Well, written comments are being
16 accepted through August 31 of 2004, and on the table
17 back there is the work plan. There's four
18 additional questions being asked of Social Services
19 to be presented to the research committee.

20 At this time we're going to end the
21 public comment and go into the committee meeting
22 which you may stay if you wish. We'll take a break
23 and then go right into the committee. Thank you.

24 NOTE: The hearing concluded at
25 10:30 a.m.

1 STATE OF VIRGINIA:

2

3 COUNTY OF CHESTERFIELD, TO-WIT:

4

5 I, PATRICIA B. HAMBRIGHT, Notary Public in
6 and for the State of Virginia at Large, do hereby
7 certify that the aforementioned appeared before me, and
8 that the foregoing is a true and correct and full
9 transcript of the testimony adduced.

10 I further certify that I am neither
11 counsel for, nor related to, or employed by, any of the
12 parties to the action in which this public hearing is
13 taken, and, further, that I am not a relative or
14 employee of any of counsel in the case, or interested
15 in the outcome.

16 WITNESS my hand this 18th day of August,
17 2004.

18 My commission expires December 31, 2004.

19

20

21

22

PATRICIA B. HAMBRIGHT

23

24

25

Mary Smith, N.H.A., Chair

Elizabeth A. Carter, Ph.D., Executive Director