



WALA Watch

AT THE FOREFRONT OF ASSISTED LIVING IN WISCONSIN

JUNE 2004

WALA-Wisconsin Assisted Living Association

VOL. 9, NO. 3



8TH ANNUAL WALA AUTUMN CLASSIC

If you haven't heard already, 2004 is going to be the best Golf event that WALA has ever held! The raffle is bigger and better than ever, there are four Hole-In-One chances, and best of all...the prices haven't increased a dime since 2002!



WALA is pleased to host its 8th Annual 2004 WALA Autumn Classic at a great golf course — Lac La Belle Country Club in Oconomowoc.

This beautiful course is nestled among rolling hills and valleys on the shores of scenic Lac La Belle. Golfers from our previous three outings have enjoyed playing this course so much that we are going back again! We are sure you will find playing this course a very pleasant challenge!

Foursomes this year will have the option of playing either best ball or scramble. Your registration fee includes: complimentary beverage carts on the course, two premier raffle tickets (see below), golf fees and cart,



Autumn Classic continued on page 15

MONDAY, SEPTEMBER 20

THE '05 WALA FALL SYMPOSIUM



Take Control of Your Operations!

How Your Operations Could be the Answer to Regulatory, Insurance and Risk Management Questions

WALA's 5th Annual Fall Symposium, 'Take Control of Your Operations!' is coming to you this fall. Across the country, risk management is becoming an increasingly touchy subject. At the same time, insurance rates are more than doubling, often putting coverage out of reach for providers of all sizes and regulatory types. Many providers are shrugging their shoulders — being told there is nothing they can do.

WALA's Fall Symposium wants to help you take control of the situation. Held in each of the five BQA regions, the Fall Symposium will include:

- Regulatory update — lots of changes in the air!
- Ways to update your operations to reduce risk — and help stave off future insurance increases by reducing claims now.

- The always popular regulatory roundtables — meet with your peers to discuss your hot button topics.
- Discussion on the issues of today.

The seminars will be held the last week of September/early October in each of the five BQA regions. Be sure and mark your calendar: Tuesday, Sept. 28 at the Radisson Hotel in Madison; Wednesday, Sept. 29 at the Ramada Inn Convention Center in Eau Claire; Thursday, Sept. 30 at the Best Western Midway Hotel in Wausau; Tuesday, Oct. 5 at the Brett Favre Steakhouse in Green Bay; and Wednesday, Oct. 6 at the Manchester East Hotel & Suites in Milwaukee.

All sessions will be one-day events and run from 8:30 a.m. to 4:00 p.m. on the date listed. Details will be mailed in early July. Contact the WALA office if you want to be sure you are on the brochure mailing list.



WISCONSIN ASSISTED LIVING ASSOCIATION
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Your WALA team.



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By Sue Reese, WALA Board President

One of the most important things that I do as the WALA President is talk with you — our members. Your feedback and suggestions are critical for WALA to continue to stay on focus and keep tracking with the issues that are pertinent to you and your operation.

WALA is about you: the provider that owns a single eight-bed CBRF; the provider that has just expanded; the large organization that may have a national presence; and our many associate members providing services and training in our industry.

No matter what the size of your home, the number homes you operate, the population you serve, or the service you provide, WALA represents **you**.



Sue Reese

WALA is striving to continuously meet your needs. We are fortunate to have Chris Herb, Membership Services Director, on our WALA team. Chris has been able to travel the State of Wisconsin, attending various networking groups that meet monthly. Through these visits, Chris has become more aware of the needs and issues you are facing. This is important as WALA gears up for the remainder of 2004 and begins planning for 2005.

I believe we, as providers and associate members, can tweak our operations by networking, sharing and continually looking for ways to improve our service to our residents. WALA has several opportunities coming up over the next few months that will provide the venue for this learning and networking.

The 5th Annual Fall Symposium is coming to you in all five BQA regions and will be held in late September and early October (*see cover story*). At this event, WALA will address regulatory concerns, and what you can do operationally to reduce risk and improve your insurance outlook. We will break out by regulatory type and size to help you get the information you need. Early in November, WALA wants you to help us celebrate 10 years of serving the industry with high-class networking and fun at the WALA Gala. Later that month, be the first to attend the much anticipated and highly demanded prototype of ALU's new Advanced Administrator training program for administrators who know a thing or two but are looking for more. It's a busy fall for WALA!

As you are out and about attending the education sessions, look for our newest Board members and say 'Hi.' Brad Klitsch from Direct Supply and Barb Mack with Appletree Enterprises both bring unique perspectives to the WALA Board as Associate members. You met the other board members at the '04 Spring Conference, and you can rest assured that the board is representing the best interest of the assisted living industry.

I look forward to seeing many of you at the upcoming sessions. Please — share, share, share.

OOPS!

Contrary to what was published in the last issue of this newsletter, WALA Board Member Susan Persch is employed — happily we might add — by the Laureate Group. Ouch. Susan, we apologize and promise to get information about you mostly correct most of the time from now on.



**WALA & ALFA
ARE ONE ALFA**



MURPHY'S MUSINGS

By Jim Murphy, WALA Executive Director

WALA is honored to welcome the new Director of the Bureau of Quality Assurance, Ms. Cris Ros-Dukler.

Cris has an extensive background in overseeing health and human services in the public, private non-profit, and for profit organizations in Texas and Wisconsin. Cris is currently working with the Division of Children and Family Services as a Facilitator of a statewide planning partnership with counties, tribes, advocacy groups, consumers and other stakeholders in the child welfare arena to improve child welfare outcomes.

Before moving to Wisconsin, Cris served 11 years as the Deputy Director for the Texas Department of Protective and Regulatory Services. The National Center for Children in Poverty recognized the Texas regulatory program for its 'creative leadership in developing inner city child care and enhanced training for low-income women.' Cris also worked for the Texas Department of Human Services and held various positions including eight years as an Assistant Commissioner managing different critical functions. She managed an \$80M budget to provide community-based services to low-income elderly and persons with disabilities and to former residents of nursing homes who were relocated to community settings.

Her experience in Wisconsin includes five years as UPC Health Network's Executive Director of Operations for Wisconsin and Illinois where she was responsible for profit and loss management of home health, durable medical equipment, and ancillary services to nursing homes, and other residential settings; product development; acquisitions and joint ventures and quality assurance. She also served as the Regional Vice President for Lutheran Social Services (LSS) for the Northeast region and Upper Michigan for two years where she was responsible for overseeing operations and provision of services to families and children, residential and support services and adoption. In addition, she managed the contract with the Bureau of Milwaukee Child Welfare to license, train and support foster care providers.

Please join us in welcoming Cris to her new challenge and opportunity! WALA and its membership are happy to be of service in anyway that we can.

Cris has been invited to speak at the WALA Spring Conference as a keynoter on Thursday, March 24 at Ho-Chunk in Wisconsin Dells. Come meet her in person!



Jim Murphy

JIM MURPHY BUYS LUNCH AGAIN?

Amy Zellmer, Director of Sales at the Olympia Resort in Oconomowoc recently called the editor to say that she, too, had had a Jim Murphy lunch experience. It seems that Amy was celebrating the turning of another year in her life (we aren't saying which one), when a tuna salad croissant mysteriously appeared on her desk.

'How it got there I'll never know,' stated Amy, 'but it was an unbelievable shock when I opened the card and saw that it was from Mr. James Murphy.'

Amy said she has heard of the brazen lunch promises and the elusive follow throughs and has been the victim of several such temptations in the past. So the card floored her.

'I checked with all of my staff to see who the prankster might be,' said Amy. 'After careful checking, I had to admit that the sandwich must be from Mr. Murphy himself. I have to say — I enjoyed every last bite of the tasty tuna salad croissant. It was 100% better just knowing that Jim bought it!'

Lab tests confirmed that the croissant was indeed considerably tastier than most tuna salad croissants, but was not conclusive on whether this was due to the Murphy purchase. They preferred to err on the side of caution and stated that this tastiness could be due to other causes — such as a profusion of pickles or an errant dollop of horseradish.

Doubts were raised (for obvious reasons) when Amy called with her claim but anonymous sources at the office confirmed that the sandwich was actually purchased by WALA staff and was later reimbursed by Mr. Murphy who stated, 'Tuna salad croissant — what a brilliant idea! Why didn't I think of that?'

WALA NETWORKING NIGHT MADISON MALLARDS

Quack up with WALA on Thursday, August 5, 2004 as we join the Madison Mallards for a family friendly networking night of food, baseball, freebies and fun!

Summer wouldn't be complete without baseball, and WALA wouldn't be complete without you! Join WALA for this uniquely Madison event as we take over the Duck Blind to bring you an irresistible summer night of networking.

The Great Dane Duck Blind features an all you can eat and drink extravaganza! They serve a huge selection of beer, highlighted by Great Dane of course, soda, brats, burgers, hot dogs, chicken breasts and more! It is an exclusive setting with a great view of the game!

The evening kicks off when the gates open at 5:45 p.m. at the Mallard's stadium in Warner Park, Madison. Thursday nights are 'Great Dane Beer Tasting Thursdays' so you can sample Great Dane brews for free during the pre-game while you chat with WALA friends.

As if that weren't enough, the famous quarter game, played at the 2001 Networking Night with the Brewers will return! Each attendee should bring a roll of quarters to participate. This game is the highlight of the event — rules will be explained at the game.

In addition, August 5 is Shoe Box Baseball Night, so the first 1,000 fans 14 and under will receive free Mallards logo baseballs! So bring the entire family and have some fun with WALA and the Madison Mallards.

Tickets are \$40, but register before July 31 to save \$5 per ticket! For more information or to register for the summer networking fun, contact the WALA office or register online. *We want to see you there!*



ASSISTED LIVING TODAY BUYER'S GUIDE NOW ONLINE

Want to check out the *Assisted Living Today* 2004 Buyer's Guide? You don't need to remember where you left the latest copy of ALFA's *Assisted Living Today* magazine, where the sixth annual guide first appeared. Now you can download this free resource at ALFA Online (www.alfa.org)!

The valuable directory provides details on companies offering vital products and services for the senior housing industry — everything from architects and banks to medical supplies and transportation services. Refer to this guide throughout the year when you need assisted living goods and services.

Don't miss your chance to obtain this comprehensive assisted living buyer's guide. Visit ALFA Online today (www.alfa.org)!

LEGISLATIVE REPORT Update on various legislative matters

PROVIDER SUMMIT TO MEET WITH SECRETARY HELENE NELSON — On June 25, delegates from the Coalition Provider Summit will be meeting with Secretary Helene Nelson to discuss the Wisconsin state budget for 2005–2007. You can bet that the message will be clear: long-term care needs more funding to care for the residents and tenants of assisted living and to make assisted living a viable option for anyone. We'll keep you posted.

WALA MEETS THE GOVERNOR — Delegates from the Provider Coalition Summit attended Governor Doyle's signing of Senate Bill 567 securing \$53 million in federal funding to offset the MA budget shortfall. WALA executive director Jim Murphy was among those present. (See photo on right.)



TABOR OPPOSED — WALA recently co-signed a letter opposing the Taxpayer's Bill of Rights (TABOR), a bill that has the potential to devastate health and human service programs. As of mid-June, it appears as if TABOR has been laid to rest. A copy of the Provider Organization Summit joint letter is available on our website at www.ewala.org or by calling the office.

WALA WRITES BQA ON PROVIDER PROFILES

In a recent letter to Otis Woods, Deputy Director of BQA, WALA voiced opinions about the memo on public provider profiles. We support consumer access to assisted living provider information in order to foster informed choice. However, the information presented must be both useful to the consumer and fair to the providers.

To further aid the consumer, WALA suggested that BQA include email, website, fax numbers, capacity and license type (AA, ALZ, DD, MI etc.) and class (CNA, CS, AA, etc.) in the listings as well as definitions of the abbreviations. WALA also requested that RCACs be listed as either certified or registered.

WALA's **main concern** is the posting of information related to providers' state citations. It is our assumption that BQA will use the current listing of nursing home state citations as a model for the assisted living postings. We therefore offered a few suggestions based on the nursing home model.

- **CITATION INTRODUCTION PAGE** — We suggest that BQA list the definitions of terms and abbreviations used.
- **SURVEY TYPE: SELF-REPORTING** should be posted only when and if a self-report leads to a citation. This would be in the same column as FULL, ABBREVIATED, COMPLAINT, etc. We also recommend that appropriate language be listed on the Introduction Page so the consumer understands what SELF REPORTING means.
- **SOD NUMBER:** WALA encourages BQA to add 'Under Appeal' or 'All Under Appeal' in the same column for each citation.
- **CODE CITED:** WALA recommends that problems that lead to 'Notices' not be posted and that only those citations that result in enforcement actions be listed.

And most importantly, WALA recommends that citations only be listed on the BQA website **when all appeals have reached final disposition.** If the citation is not appealed, final disposition will occur within 10 days of official notification by BQA. For those SODs that are appealed, it is our recommendation that they not be posted until after the settlement or hearing on the appeal is finally settled. This would prevent disputed citations from appearing on the BQA's website before final determination. In this manner, only the true, final picture of the violation is posted, not the citation in process.



DIALOGUE WITH BQA

The following information from the Bureau of Quality Assurance (BQA) is garnered from a wide variety of meetings, discussion and handouts from BQA, DHFS and other sources, and has been compiled by WALA Executive Director Jim Murphy. Editorial comments are his.

NEW BQA DIRECTOR HIRED — BQA announced the appointment of Cris Ros-Dukler as the Director of the Bureau of Quality Assurance. WALA welcomes Cris to her new challenge and opportunity! (See *Murphy's Musings* on page 3 for more information.)

BUREAU OF QUALITY ASSURANCE 4TH ANNUAL PROVIDER CONFERENCE — BQA has announced this year's Annual BQA Provider Conference to be held August 9, 2004. The conference 'FOCUS 2004: COLLABORATING FOR QUALITY' will be held at the American Family National Headquarters Training Center located at 6000 American Parkway in Madison. Caregivers and management from assisted living facilities, nursing homes and intermediate care facilities for persons with mental retardation will benefit from the conference theme 'Achieving Quality Through Standards of Practice.' Brochures and registration information became available the week of May 27, 2004. Remember to check the BQA web site at http://dhfs.wisconsin.gov/rl_dsl/training/index.htm for further information about this conference.

BQA TO POST PROVIDER PROFILES ON WEBSITE — As part of BQA's ongoing commitment to provide information so consumers can make important health care decisions, BQA will begin publishing provider profiles on the BQA website beginning September 30, 2004. According to BQA memo 04-013, released May 7, the exact format for the type of information published has not yet been determined; however, at a minimum, information will include outcomes of recent BQA annual surveys and complaint investigations. Because this is a new endeavor for BQA, they will work with stakeholders, including providers and consumers, before publishing.

WALA submitted a letter in June to BQA with our concerns, including how citations will be listed. (See *story on page 4.*) WALA supports the concept of consumer access to information, but safeguards must be in place to protect providers. Contact WALA for our complete comments to BQA.

BQA TO DISCONTINUE DISTRIBUTION OF NUMBERED MEMOS AND DOCUMENT SALES — The BQA is no longer distributing numbered memos. It is now the provider's responsibility to regularly check the BQA website for announcements and memos. You can count on WALA to keep you updated via fax/email blasts whenever pressing memos are posted.

As of May 1, 2004, BQA also discontinued its document sales operations due to decline in demand. Several documents and forms will now only be available via the BQA website.

If you have problems accessing the Internet materials, please e-mail Todd McCall at mccaltw@dhfs.state.wi.us or call 608/267-3808. You can also contact the WALA office.

OTHER BQA MEMOS — BQA memos available on the WALA website or via WALA include:

- Memo 04-010 — Bureau Personnel Changes and the announcement of new 24-hour phone access to BQA Senior Management 608/266-8481.
- Memo 04-014 outlining changes to the contract between DHFS and Promissor, Inc with improved service, etc for your CNAs.
- A few counties have been re-assigned to other BQA regions. BQA will contact you if your county has changed regions. See below.

HFS 83-REWRITE — The process continues on the HFS 83 rewrite. The WALA Legislative Committee and Board reviews the drafts as they are received, forwards their comments to the WALA Rewrite Committee and then recommendations get sent back to BQA.

The next draft regulations should be received in early July on physical plant requirements. BQA has also announced a rewrite timeline for implementation. According to the timeline, the earliest effective date of changes to HFS 83 will be mid 2006, and probably much later.

BIG NEWS ON THE INSURANCE FRONT! — Since January of this year, WALA has worked extremely hard to improve the liability insurance situation in Wisconsin. There is finally some good news! Insurance companies are beginning to move back into Wisconsin! You now have the ability to do a little shopping around for the best coverage.

Dialogue continued

Visit the ALFA website (alfa.org/public/articles/index.cfm?cat=58) to obtain information on your current range of options.

ROSE BORON OF NORTH CENTRAL WISCONSIN ASSISTED LIVING ASSOCIATION RECEIVES GUBERNATORIAL APPOINTMENT — Rose has been appointed by the Governor to the Board on Aging and Long Term Care. The Mission of the Board on Aging and Long Term Care is to advocate for the interests of the state's citizens in need of long-term care. Congrats Rose! WALA thanks you for all you do for assisted living.

BQA REGIONS HAVE BEEN RECONFIGURED SLIGHTLY — Several counties are now reassigned to different BQA Regional Offices:

- Sawyer county is now assigned to the Western Regional Office
- Marinette, Oconto, Menomonee, Shawano and Waupaca counties are now assigned to the Northern Regional Office
- Ozaukee county is now assigned to the North Eastern Regional Office
- Vernon, Washington and Jefferson counties are now assigned to the Southern Regional Office

If your county is one of those impacted, you will be contacted by the BQA. For more information, contact the BQA regional office.

BQA PUBLISHES HOSPICE/RCAC INTERFACE DOCUMENT — The BQA has released guidelines for care coordination for hospice patients who reside in RCACs. The document lays out the BQA's best practices for the complex and delicate relationship between RCACs and Hospice Care. The document can be found on the BQA website at: http://dhfs.wisconsin.gov/rl_DSL/Providers/HospiceRCACintrfc.pdf If you need a copy of the document mailed to you, please contact the WALA office.



VIDEO OF WISCONSIN HOME FRONT AND THE PEOPLE WHO CALLED IT HOME

WALA is pleased to announce that Wisconsin Public Television (WPT) is currently running a series on the Wisconsin World War II effort entitled *Home Front*. The series focuses on the people of Wisconsin and how their lives changed with the war, as the entire state, and country, became dedicated to the war effort.

Interviewing people from throughout the state, the video touches on everything from farmers' increased production to the industrial focus on war needs and the consequent production of everything from ammunition to nuts and bolts to submarines. Stories are told of the women who worked long hours in the foundry, and the farmers who sowed more crops than ever before. The storytellers recall those days and the hardships of a refocused life void of so many familiarities. They tell their stories, and in their collaboration, tell a story of the Wisconsin home front, a story of Wisconsin people and how they got through it all.

The documentary has been made available by WPT for \$12. Contact Development Director Jon Miskowski at miskowski@wpt.org or 608/263-0299 for the video and teaching guide to celebrate your residents who were 'On the Home Front' during WWII.

wpt.org 



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ALFA SPEAKS OUT FOR ASSISTED LIVING

'Residents and their families should know with certainty that they are safe and the individuals who share their home are, like themselves, exactly where they need to be,' ALFA President/CEO Richard P. Grimes asserts in a letter to the editor of the Washington Post. His comments were in response to the series of articles about assisted living that appeared in the newspaper last week. 'It is shocking, for example, to know that individuals in serious need of mental health services are being inappropriately placed among some of the most vulnerable in our society. ALFA, our Virginia affiliate, and our members in Virginia are committed...to those regulatory changes that will strengthen the state's capacity to deal with serious problems and close down any bad operators.'

Responding to last month's series by *USA Today*, ALFA took a similar stand in a separate letter penned and submitted jointly by ALFA and the 10 other national organizations representing assisted living providers, consumers, and other stakeholders that make up the Center for Excellence in Assisted Living (CEAL); 'We believe that the problems cited in *USA Today*'s series on assisted living, or any, examples of substandard care or conduct are unacceptable. ...We renew the call for states to examine their rules for assisted living.'

That letter to the editor, featured in its entirety at ALFA Online (www.alfa.org), reflects priorities shared by CEAL members, which include AARP, American Assisted Living Nurses Association, American Association of Homes and Services for the Aging, American Seniors Housing Association, Assisted Living Federation of America, Alzheimer's Association, Consumer Consortium on Assisted Living, National Center For Assisted Living, NCB Development Corporation, Pioneer Network, and Paralyzed Veterans of America.

Reacting to the series in *USA Today*, Sen. Larry Craig (R-ID) stated that the U.S. Senate Special Committee on Aging, which he chairs, probably will hold an oversight hearing in 2005 to examine safety issues and the possibility of federal regulation. Craig says he favors 'a consistency of state regulations' for now. The article cites a new congressional study that points to innovative programs in some states.

Following Craig's comments in *USA Today*, Grimes reaffirmed ALFA members' commitment to the quality care and safety of residents as well as effective state regulation of assisted living. ALFA also has released materials designed to help members manage any fallout from the reports, including a formal ALFA Statement, Talking Points, and Managing the Media Guide. All materials are available at ALFA Online (www.alfa.org); the Managing the Media Guide appears in the Members Only section of the website, under Crisis Communications.

START PLANNING FOR ASSISTED LIVING WEEK!

National Assisted Living Week will be celebrated **September 12-18, 2004**, beginning on Grandparent's Day.

The week spotlights the crucial role assisted living communities play in helping our nation's elderly to live as independently as possible while enjoying a meaningful quality of life. It also provides an opportunity to celebrate the exceptional involvement of families, staff, volunteers, and individuals from the local community in the lives of assisted living residents.

This is one of many opportunities throughout the year to call attention to residents' continuing value and importance in society, and dispel a few myths about aging along the way.

Further information will be provided by WALA in upcoming newsletters, and, of course, information is always available from ALFA at www.alfa.org or via WALA.

ASSISTED LIVING WEEK

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COLLINS REALTY GROUP NAMES VICE PRESIDENT OF SALES

Daren Dudgeon has been named Vice President of Sales for Collins Realty Group, Inc., a firm that specializes in buying and selling assisted living. In his new role, Dudgeon will be responsible for expanding and managing the company's sales staff and for helping Collins Realty Group expand services into other states.

Dudgeon, who holds a marketing/public relations degree from Northern Arizona University, has prior experience in sales management with Snap-On-Tools, and other major U.S. corporations.

Collins Realty Group was established in 1999 and is owned and operated by Mike Collins. He brings a unique perspective to his company, having been a developer, owner and operator of assisted living facilities for more than a decade.

For more information, contact Collins Realty at 608/834-4127 or visit www.collinsrealty-group.com

Provider Profiles *continued from Page 4*

We also suggest that when the Plan of Correction has been met, the website be so noted.

WALA also made a point to mention in our letter that within days of the announcement that BQA would be posting Provider Profiles, at least one provider began to re-consider accepting the offer of the 35% discount if all the citations are accepted. This provider now realizes that there will be additional consequences to this acceptance. Not only will their insurance broker review all of their citations when insurance rates are set, but now the consumer will also review them on the BQA website! Receiving the discount by accepting all citations will be reflected on the website by additional citations for the public to review.

The entire letter is available via the WALA office.

ASSISTED LIVING NETWORKS BENEFIT THE AL INDUSTRY AND YOU!

Did you know that there are dozens of assisted living networks throughout the state? Usually, these groups hold informal monthly meetings of assisted living providers in a given county. Such grassroots networks are critically important marketing venues and at most meetings announcements of vacancies are shared and referrals made. Participants are very active in educating the public about assisted living and are deeply committed to providing the best care possible. The existence of such groups enhances the image of the industry in the eyes of the State. Often regional networks give vocal support for WALA lobbying efforts on various policy issues.

One example of such a network is the North Central Assisted Living Association coordinated by Rose Boron. NCWALA is an alliance of providers who meet every other month in Wausau to share ideas on retention of staff, how to prepare for (and sometimes how to recover from) State surveys, and to keep area providers up to date on important regulatory and legislative issues facing our industry. Other groups, like the Walworth County CBRF Network, coordinate trainings and share other ideas and resources to lower costs. The La Crosse Area Assisted Living Association organizes an annual caregiver celebration and, like many area networks, frequently brings in guest speakers to provide expertise on various subjects. A few groups, like the St. Michael's Chronic Care Services and Community CBRFs Network, combine forces with the spectrum of long-term care providers including hospitals and nursing homes.

As Member Services Director, Chris Herb travels throughout the state to as many network meetings as possible and is helping to establish new ones. WALA learns so much by meeting providers all over the state and hearing your needs and concerns. Thank you! You are going to see several changes in the WALA website and member services in upcoming months as a result of your comments and suggestions.

In every issue of the *WALA Watch*, we publish an events calendar listing meeting times, locations and contact information (*see the back cover*). We encourage you to get involved with your area network! The entire industry will benefit from increased local and regional involvement. Do you have a network in your area not listed in the WALA events calendar? Are you interested in starting one? Contact Chris Herb at the WALA office.

Guess who just sold his business?



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WHOSE RIGHT TO CHOOSE?

by Joel S. Goldman Hanson

Bridgett, Marcus, Vlahos & Rudy LLP
Member, ALFA Legal Committee

Editor's Note: We occasionally feature an article written by a member of the ALFA Legal Committee. In these articles, an attorney underscores an example of an actual case that raises difficult issues that have public policy implications. The case discussed below — in which a resident's right to choose is balanced against the priority of protecting her health and safety — provides guidance on a real-life example of the types of challenges that assisted living providers face every day.

One of the vexing problems facing assisted living providers is how to deal with 'problem' family members. We all have heard about cases in which a family member may propose an action that is directly in contradiction to the preferences or best interests of the resident — and these kinds of situations are generally challenging. While each situation is unique and there are typically no formalistic responses, a recent incident that took place in an assisted living community may provide useful guidance.

The daughter of a resident came to take her mother out to lunch. Staff observed that the daughter was intoxicated and called the police. To prevent the mother and daughter from driving off together, the community's van was parked behind the daughter's car. When the police arrived, the daughter attempted to drive up an embankment and was arrested.

First and foremost, the assisted living provider in this instance had significant concerns for the safety of the resident. By the same token, however, applicable regulations gave the resident an absolute right to leave the community. This is a good example of where the provider needs to look beyond the regulation and take into account other factors that may not be as clearly spelled out in law.

Legally speaking, it is much easier for an assisted living provider to defend itself (whether in a regulatory proceeding or a personal injury lawsuit) for depriving a resident of her personal rights under these circumstances than to defend itself had the resident been injured or killed while riding with her drunk daughter. In this situation, the provider clearly acted prudently by intervening and preventing a potential tragedy, regardless of whether the provider circumvented a resident rights regulation.

Planning Ahead

Following this incident, a concern was raised about what to do if the daughter arrived sober and wanted to take her mother out of the community. Obviously, a provider might have difficulty justifying preventing a resident from leaving because her daughter *might* get drunk along the way. Nevertheless, given the provider's knowledge of the daughter's propensity to drive drunk — and, in this case, the daughter's history of habitual alcoholism — the provider considered it unacceptable to simply ignore the situation.

The resident was physically frail but mentally competent. She was aware of her daughter's drinking problem and had not wanted to go driving with her daughter, but she was intimidated and lacked the nerve to refuse to go with her. The community's executive director expressed confidence that if the resident were approached outside the presence of her daughter, she would agree in writing to ask the community to intervene in the event that the daughter attempted to take her for a drive.

Thus, a directive was composed for the resident to sign to this effect:

I, Jane Doe, wish to have my daughter visit me at the Community. However, I am aware of my daughter's alcohol problem, and for that reason, do not wish to drive with her. If my daughter attempts to take me with her from the Community, and Community staff is aware of the situation, I wish for them to intervene and prevent me from going.

Choose continued

Because contracts are subject to revision including (with a few exceptions none of which pertain here) oral modification unless the agreement specifies otherwise, the following was added:

This directive may only be modified pursuant to a writing signed by me on not less than twenty-four (24) hours advance notice.

The final clause of the directive was intended to prevent the daughter from coercing her mother to countermand the directive.

Taking Responsibility

It is important to note that under this approach, the residence undertakes certain responsibilities, including a duty to ensure that its staff is aware of the situation. For example, if a new receptionist is hired, he or she must to be aware of the directive and be familiar with the appearance of the resident and the daughter.

However, the community already had responsibilities in light of its knowledge of the daughter's drinking problem and its duty of care to the resident. Without the directive, the community would have no way to deal effectively with the situation. In sum, the community found a way to serve the resident's needs in a way that not only limited potential future problems but also did not put the resident in a difficult situation involving a family member.

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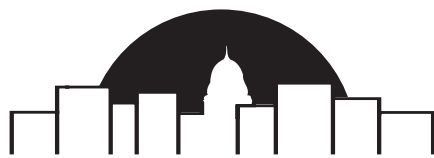




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CONGRESSIONAL STUDY OF ASSISTED LIVING POINTS TO PROMISING APPROACHES

The U.S. Senate Special Committee on Aging released the report on assisted living conducted by the congressional General Accounting Office (GAO).

The GAO report, requested by committee members Sen. Larry Craig (R-ID); Sen. John Breaux (D-LA) and Sen. Ron Wyden (D-OR) focused on three aspects of assisted living: consumer disclosure, state agency technical assistance programs and consumer grievance procedures.

The report <http://aging.senate.gov/pressreleases/gaoolreport.pdf> includes findings that highlight the diverse approaches that states take to the regulation and licensing of assisted living residences, saying that states can learn from others' approaches. 'Assisted Living: Examples of State Efforts to Improve Consumer Protections' focuses on noteworthy issues and approaches in a handful of states:

- (1) uniform consumer disclosure in Texas
- (2) a consumer information effort in Florida
- (3) remedies for consumer grievances in Georgia
- (4) technical assistance to providers in the state of Washington, and
- (5) an assisted living-specific ombudsman program in Massachusetts.

ALFA recently released a summary and analysis of the report, outlining major ramifications for members in detail. The summary is available at ALFA Online www.alfa.org

WALA INDUSTRY EXPERT DIRECTORY: A New Associate Member Benefit

At the Spring Conference this year, WALA presented our inaugural edition of the Assisted Living Resource Directory. This resource for providers and regulators is a great benefit of WALA Associate Membership!

500 directories were handed out at the WALA conference and you can bet providers in need of technical assistance are consulting them. WALA also sent copies of the directory to BQA offices, receiving letters of appreciation from Kevin Coughlin of BQA and Sinikka Santala of DHFS. The WALA office has received calls from providers referred to us by BQA as a result of the directory.

Listings are in alphabetical order and organized by business category. Associate members can write a 70-75 word description of their business and the services provided. Providers in need of technical assistance are already using this important resource.

This directory will soon see its second edition and will be made available to WALA members. If you would like a printed copy of the directory, contact Member Services Director, Chris Herb at cherb@ewala.org or call the WALA office. The directory is also available on our website www.ewala.org by just clicking on Industry Expert Search.



CHANGES TO 'FAIR PAY' REGULATIONS AFFECT YOU!

Attorney Troy Thompson, Axley Brynson, LLP

The information below is excerpted from a Regulatory Alert by Axley Brynson giving details of the FLSA and its impact on you as a provider. For the complete document, contact Troy Thompson at tthompson@axley.com or 608/283-6746. You can also contact the WALA office.

On April 20, 2004, the U.S. Department of Labor released its final 'Fair Pay' regulations governing overtime eligibility for employees under the Fair Labor Standards Act ('FLSA'). The new regulations become effective 120 days from the date of their publication. The regulations modify outdated rules that had been in place for more than 50 years. The FLSA generally requires employers to pay employees overtime at the rate of one and one-half times the regular rate for all hours worked in excess of 40 in a workweek. However, Section 13(a)(1) of the FLSA provides several important 'white collar' exemptions from the overtime requirements applicable to bona fide executive, administrative, professional, and outside sales employees. Section 13(a)(1) and Section 13(a)(17) of the FLSA also exempt certain computer employees.

The new regulations make it necessary for employers to review their exempt positions to determine whether those positions can continue to be classified as exempt under the FLSA. The regulations also allow employers to take steps now to set up an affirmative defense to certain wage and hour claims. The Department of Labor estimates that the regulations will cause approximately seven million additional employees to be eligible for overtime. An employer's failure to satisfy its due diligence requirements will likely constitute evidence of a 'willful' violation of the FLSA in the event the Department of Labor or a court determines that the employer has misclassified a non-exempt position as exempt. Employers are exposed to substantial additional liability for 'willful' violations of the FLSA.

There are a host of other relevant provisions contained in the new 'Fair Pay' regulations issued by the U.S. Department of Labor on April 20, 2004. It will be necessary for employers to become familiar with all of the provisions under these regulations because they significantly modify the old rules. It will also be necessary for employers to audit all of their existing positions presently classified as 'exempt' to determine whether those positions can continue to be classified in that manner under the new regulations. Employers should also update or create job descriptions and certain employment policies as necessary to set up an affirmative defense to certain wage and hour claims that might not be available in the absence of such policies. An employer's failure to conduct an audit will likely constitute evidence of a 'willful' violation of the FLSA in the event a nonexempt position has been mis-classified as exempt, exposing the employer to greater potential liability under the FLSA.

ALFA HERO AWARD HONORS SUE FINCH BROWN

Sue Finch Brown is the owner and operator of Hilltop Manor, an assisted living community serving the elderly and those with Alzheimer's. A registered nurse for almost two decades, Sue's commitment to those in need cannot be questioned. For example, Hilltop Manor maintains a policy that no one is to be turned away from her facility while space is available, despite the client's ability to pay.

Sue recently created a separate non-profit organization appropriately named 'Warm a Heart.' This charitable organization provides elderly and handicapped adults with resources, programs, and services in daycare and independent living settings when caregivers require assistance.

It is for these reasons that at the ALFA convention in Chicago in May, Sue Finch Brown was presented the ALFA Hero Award. ALFA has recognized in her efforts and practices that which embodies the goals of all assisted living communities and the spirit that drives the organization. *Way to go, Sue!*

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ALFA CONTRIBUTES TO HHS STUDY OF NEGOTIATED RISK AGREEMENTS

ALFA recently weighed in on the topic of negotiated risk agreements in assisted living at the request of the U.S. Department of Health and Human Services' Office of Planning and Evaluation, which is conducting research on the topic. Ongoing communication among providers, residents, and families is essential to ensuring that the needs and lifestyle preferences of tenants and residents are accommodated in ways that promote health and safety, ALFA government relations staff affirmed, based on input from the ALFA Legal Committee.

Providers, residents, and families entering into negotiated risk agreements need to ensure that all parties clearly understand the risks associated with activities being considered, ALFA staff asserted in an interview with the research team. Even in cases where no formal negotiated risk document is signed, providers are encouraged to promote discussion about maintaining a responsible balance between health, safety, risk, and independence.

Negotiated risk agreements, in which providers and residents agree to conditions under which activities involving health risks may be permissible, are used in some assisted living communities. The study is expected to be published by the end of this year.

DEBT DELINQUENCIES DOWN, OCCUPANCY UP, SAYS STUDY

Permanent debt delinquencies fell for assisted living in the third quarter of 2003, according to a new report by the National Investment Center for the Seniors Housing & Care Industries (NIC). Loan volume placed in the third quarter of 2003 increased \$11 million from the second quarter, with about \$592 million placed by lenders in seniors housing and care. Loan performance was also more positive, as the delinquency rate for the entire seniors housing and care industry dipped from 5.4 to 3.6 percent. Although permanent debt delinquencies rose for skilled nursing in the third quarter, they dropped from 10.01 to 4.30 percent in assisted living, NIC recently reported.

'The drop in delinquency rates for assisted living is good news for the industry, and it shows that a number of the troubled properties have continued to work their way through the system,' said NIC President Robert Kramer. The favorable outlook is attributable to the increase in occupancy rates for assisted living.

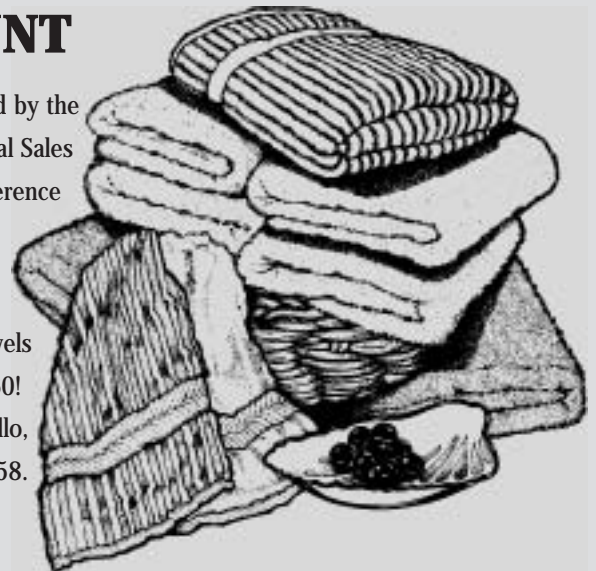
'It certainly is good news when you look at where we stand this quarter in comparison to the last two,' said Anthony Mullen, director of NIC's Seniors Housing & Care Executive Development Program. 'When median occupancy rates for assisted living dropped to 83 percent during the first quarter of 2003, some assisted living operators were forced to come up with additional equity or let the property go to the lender. In the second quarter, both median and mean occupancies rose to 84 percent and seemed to strengthen a bit more this quarter to 85 percent.'

Results from this quarter offer continued evidence that skilled nursing occupancy rates have stabilized over the past year. Move-in rates for assisted living (for properties open less than 24 months) for the third quarter were also stronger. The average move-in per month since opening was 4.8, compared to 4.3 in the previous quarter. Average capitalization rates for assisted living properties remained stable at 11.4 percent while increasing for skilled nursing properties to 14.2 percent.

TOWEL COUNT

For those of you who stopped by the
Great Lakes Commercial Sales
booth at the WALA conference
and took a guess...

the actual number of towels
in the washer was 60!
The winner was Joanie Carillo,
with a guess of 58.



HAVE YOU THOUGHT OF THIS?

Do you keep email lists for all the family members of your residents/tenants? Perhaps you should. Open lines of communication with ALL members of the family may decrease or diffuse tension should an accident occur or problem arise. At a session at the recent ALFA conference, a panel of expert speakers agreed that open communication is the best way to avoid a serious conflict and litigation. Email can make this process very simple and expedient. Of course, you need to be sensitive to each individual's preferred method of communication. Let us know if you need a hand creating an email list!



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DON'T MISS WALA'S 10TH YEAR ANNIVERSARY PARTY!

WALA is planning one heck of a bash to celebrate a decade at the forefront of assisted living. What a long way we've come! Imagine: from an office in a closet with a handful of members in 1994, to a three person staff and over 500 members ten years later. That is worth a celebration... (note the thinly veiled excuse to have a party). The celebration will be held at the Country Inn in Waukesha on Saturday, November 6. And the best part is: **NO SPEECHES AND NO AWARDS!** This is **JUST** a party to celebrate the success of WALA and the commitment of its members.

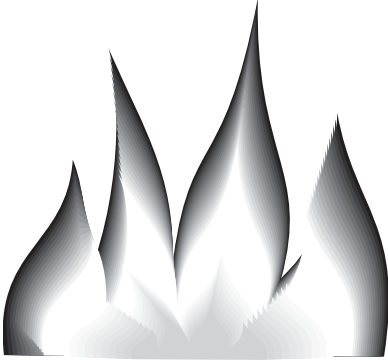
Mark your calendar now and watch for invitations in the mail.



FIRE SAFETY

TRAIN THE TRAINER COURSE

The Wisconsin Elder Alliance is once again offering its DHFS approved Fire Safety Train the Trainer Course, July 26-28 in Mosinee. Now you don't have to wait for someone to do your training. You can schedule training whenever you need it!



Call Paula Robazek at 715/842-4960
(email: wielderalliance@wieca.com) for
more information.

VISION STATEMENT OF WALA

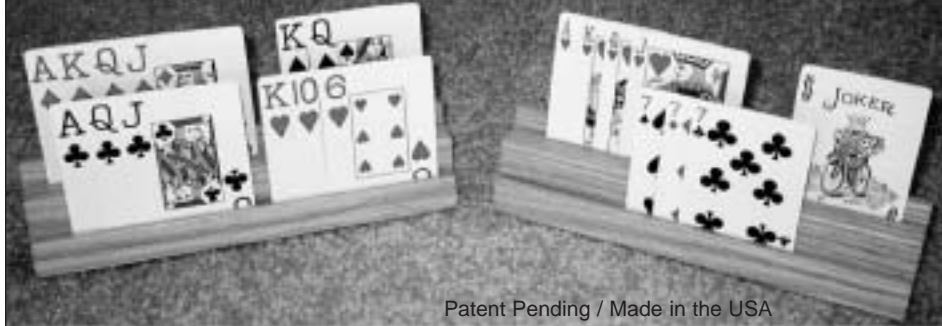
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*“I literally had our carpets damaged by having our carpets drenched with detergent. I’m a total believer in the process they use and any time a salesman for another company comes in I just let them know, I have my carpets Dry-Cleaned by Advanced DRY Carpet!”
Suzanne, General Manager of Dr. Barnes Eyemart Express East & West*

Autumn Classic continued from page 1

lunch and dinner, four chances to win the hole-in-one prizes, flag, raffle and door prizes, and all the fun and networking we can pack into a Monday afternoon!

Many thanks go to our exceptional Board and Committee, who have provided great raffle prizes for us this year! Each golfer receives two raffle tickets with the opportunity to purchase more — you can even pick the prize you wish to win.

Prizes include (and there will be more!):

- A Bose Radio/CD — *courtesy of New Perspective*
- A pair of Green Bay Packer tickets at a home game — *courtesy of Wyndemere Estates*
- A one night stay in the Golf Suite at the Olympia Resort in Oconomowoc — *courtesy of the Olympia Resort & Conference Center*
- A \$100 gift certificate to Nevada Bob’s — *courtesy of Encore Senior Living*
- A one day golf school at the Golf Academy of Geneva national Golf Club in Lake Geneva — *courtesy of Midwest Design & Development*
- A threesome to golf with the Pro at Lac La Belle Country Club
- Other great prizes to be announced.

There are four — count ‘em four — different hole-in-one prizes this year. They are a Harley Davidson Sportster, a Giant Golf Las Vegas Trip for 2, a Ken Venturi Golf School for 2 and a PGA Village Vacation for 2. You can also ‘Beat the Pro’ on the 4th hole and be a part of the betting hole.

Be sure to take 10% off your registration fee when you register by July 31.

Your decision to spend the day with WALA, networking with other assisted living providers and industry partners, helps to support the educational programs and services of WALA. Your contributions help to provide the training for better care in assisted living. We still have space available, so call WALA now for registration and sponsor forms. We look forward to spending the day with you and having a great time!





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WALA CALENDAR OF EVENTS			
CALENDAR LISTINGS	3RD TUESDAY OF EACH MONTH	JULY 29 AND SEPTEMBER 24	SEPTEMBER 20
Expanded to include all regional meetings. Did we miss yours? Contact Chris Herb at WALA, cherb@ewala.org or call the WALA office.	LaCrosse Area Assisted Living Association Meeting (LAALA) Contact Marlene Grabon 608/787-1810	North Central Wisconsin Assisted Living Association North Central Health Care Facility, Wausau Contact Rose Boron 715/693-7146; roseeboron@aol.com	8th Annual WALA Autumn Classic Lac La Belle Country Club, Oconomowoc Contact the WALA office for more info.
1ST TUESDAY OF EACH MONTH	3RD TUESDAY OF EVERY OTHER MONTH	AUGUST 5	SEPTEMBER 28-30, OCT. 5-6
Partners in Healthy Aging (Baraboo/Sauk County) Contact Cori Marsh at Cori_Marsh@ssmhc.com	Washington County Aging Concerns Network Contact Jennifer Rayl 414/259-9820	WALA Networking Night Join WALA and the Madison Mallards for a family friendly networking night of food, baseball, freebies and fun!	5th Annual Fall Symposium See story page 1. Locations <i>in all five BQA regions</i> TBA
1ST TUESDAY OF EACH MONTH	3RD THURSDAY OF EACH MONTH	AUGUST 9	COMING IN NOVEMBER:
Stoughton Senior Service Provider Group Contact Gwen Zimmerman 608/575-3045	Continuity of Care (Dane County) Contact Donna Malaise 608/230-4504	BQA's Assisted Living Provider Conference American Family Insurance, Madison Contact BQA 608/267-1438.	WALA/ALFA's Advanced Administrators Course Dates and location TBA
2ND THURSDAY OF EACH MONTH	4TH TUESDAY OF EVERY OTHER MONTH	SEPTEMBER 12-18	NOVEMBER 6
Walworth County CBRF Networking Meeting Contact Jean Duesterbeck 262/275-6103	Saint Michael's Chronic Care Services and Community CBRFs Meeting (Steven's Point/Portage County area) Contact Donna Warzynski 715/346-5534 (email: warzynskid@smhosp.org)	Assisted Living Week: Celebrate with your residents!	WALA GALA WALA's 10th Anniversary Bash Country Inn, Waukesha Details to follow
2ND WEDNESDAY OF EACH MONTH	4TH WEDNESDAY OF EACH MONTH	SEPTEMBER 18	
Dane County Committee On Aging Contact Mary Nickelson 608/251-1010	Sun Prairie Area Networking Meeting Contact Mariah Ruhland 608/335-0218 (email: mkruhland@charter.net)	Dane County Memory Walk 2004 Registration: 8:00 a.m., Walk: 9:15 a.m. Warner Park, Madison Contact Alzheimer's Association, South Central Wisconsin Chapter Dawn Wallace 608/428-9280 or 608/232-3400	
3RD TUESDAY OF EACH MONTH	2004 JULY 14		
Community Care Alliance (Ft. Atkinson/Jefferson County) Contact Terri Brouchoud 608/279-0352 (email: tbrouchoud@extendicare.com)	Northern Wisconsin Assisted Living Network K Care, Minnocqua Contact Pat Koenig 715/356-2911		