

**Written Statement of**

**Jan Thayer**

**On Behalf of**

**The National Center for Assisted Living**

**U.S. Senate Special Committee on Aging**

*Hearing on Assisted Living:  
Examining the Assisted Living Workgroup  
Final Report*

**Submitted April 29, 2003**  
**For the Hearing Record**

Chairman Craig, Senator Breaux and Members of the Committee,

On behalf of the National Center for Assisted Living, I submit the following written statement for insertion in the Senate Special Committee on Aging's April 29, 2003, formal hearing record. My name is Jan Thayer, and I am President and CEO of Excel Development Group located in Lincoln, Nebraska. My company oversees the management of 14 assisted living and retirement facilities in Iowa, Kansas and Nebraska. We have also developed hundreds of affordable housing units in those states.

In my 20 years of providing long term care to our nation's seniors, I have owned and operated nursing homes and assisted living facilities and consulted on many occasions to my colleagues in long term care. I am a registered dietitian and a licensed nursing home administrator. I am an active leader in numerous professional organizations, including the American Dietetic Association. I serve on the Board of Directors of Nebraska Health System and was appointed a member of the Nebraska Health Care Council by Governor Mike Johanns. Currently, I am serving my second year as Chair of the National Center for Assisted Living (NCAL).

As part of the American Health Care Association, NCAL is the independent assisted living voice of more than 2,200 proprietary and non-proprietary assisted living and residential care facilities nationwide. NCAL is committed to fostering growth in assisted living and ensuring that people have access to quality assisted living services by supporting responsible public policies, providing professional education and development services, and by being an information and research resource for consumers, state and federal policymakers, and the media.

### **Assisted Living Workgroup: An Innovative Approach**

Nearly two years ago, the Senate Special Committee on Aging urged several assisted living stakeholders, including NCAL, to form a workgroup to develop recommendations designed to assure consistent quality in the assisted living setting. The Committee instructed us to allow all national organizations with an interest in assisted living to participate. We were also directed to develop a comprehensive set of recommendations. The response to the invitation was impressive and resulted in approximately 50 national organizations participating in the Assisted Living Workgroup (ALW). NCAL is proud to have been an active member of the ALW and able to contribute to the ALW by using NCAL's database of ALW recommendations to compile the final report that you have before you today.

We believe that the report produced by the ALW represents only one of the positive results of this historic effort. Another positive result of the ALW was the discussion that occurred among so many knowledgeable professionals from a variety of disciplines, all of whom were focused on quality in assisted living. Without the clear direction from the Committee to invite all interested organizations to the table, it is likely that a smaller set of core organizations directly tied to assisted living would have participated. A good example of an "unlikely" organization that actively participated in the ALW is the National Multiple

Sclerosis Society (NMSS). We don't typically identify the people represented by this organization as our traditional assisted living customers. By including groups such as NMSS, the ALW gained broader insights than otherwise would have been achieved. Chairman Craig, Senator Breaux and members of the Committee, we thank you and appreciate your foresight in encouraging us to bring together such a diverse group of participants.

### **NCAL's Evaluation of the ALW Recommendations**

NCAL members and the NCAL Board of Directors took seriously their role as participants in the ALW and spent countless hours over the last 18 months on conference calls and in meetings reviewing and commenting on the ALW recommendations as they were developed. In addition to our national review, several NCAL state affiliates evaluated the recommendations throughout the entire process. Those reviews culminated in our support for most of the ALW recommendations. While we did not always agree with everything contained in a particular recommendation, we made the effort to compromise when possible, recognizing both the Committee's mandate and the spirit of cooperation with those groups in the ALW that have important perspectives that differ from our own. In those areas in which NCAL could not agree with an entire recommendation, we filed a supplemental position. It is our belief that allowing supplemental positions on the recommendations contributed to the overall quality and completeness of the report.

Early on, we decided that our approach should be to evaluate each recommendation and the impact it would have on how we would want our parents, and ultimately ourselves, cared for in the assisted living setting. Our position on some issues evolved during the 18 months the ALW met. A case in point is the second part of the definition of assisted living relating to private rooms. For several years, NCAL believed that policy provisions allowing multiple occupancy rooms were essential to preserve the availability of assisted living to lower-income individuals. However, we also recognized that none of us could honestly say that we would be comfortable sharing a room with a stranger – now or anytime in the future. It is a very difficult issue. In the end, we decided to change our position because private rooms or apartments are what consumers want and privacy is important to Americans.

NCAL believes that people should be able to share rooms or apartments if they want. We also believe public policymakers should end the double standard that exists between seniors living in subsidized public housing complexes (who are not required to live with strangers) and those who live in buildings that deliver long term care where residents are typically required to live with strangers in the same room. Thus, NCAL voted to support the private occupancy component of the ALW assisted living definition. NCAL recognizes that private occupancy in all assisted living residences will neither occur immediately, nor be possible in every instance in the near future. Private occupancy is, however, an important component of privacy and dignity to Americans, and we believe it is time to raise policymakers' awareness of this consumer and constituent expectation.

### **The ALW Report and the States: Flexibility is Key**

NCAL strongly believes that oversight of assisted living must remain at the state level. States continue to actively modify and refine their laws and regulations governing assisted living. Indeed, there have been several changes since the ALW began the process two years ago. The ALW's report is a good tool to help states as they make modifications in the future. As NCAL views the natural progression of the work of the ALW, we believe the next step is for states to develop their own state-based ALWs and evaluate the recommendations through the prism of their view of assisted living. The ALW dialogue should continue on the state level and NCAL is committed to continuing to help to support these local efforts. We plan to assist our state affiliates with their development of these state-based ALWs.

NCAL also remains firm in its belief that the profession must never lose sight of the fact that the customer of assisted living is an individual resident and that person's family member(s). An important aspect of the state-based ALWs will be the opportunity for residents of assisted living and their family members to have an active role in the evaluation of the recommendations. After all, these are the individuals we are serving, and their involvement is likely to produce the resident-centered requirements we all want.

Through the state-based ALWs, we may find that some recommendations are not important to residents. Likewise, we may discover areas that we did not address from the perspective of residents. Local resident involvement also will help tailor the recommendations. We must remember that the assisted living residents in Boise may not want what the assisted living residents in Baton Rouge want. Even as we become a more homogeneous country in many ways, significant cultural variations and expectations exist among and within the states.

I would also like to address rural-versus-urban expectations. As a provider of assisted living in rural settings, I assure you that certain priorities for residents in urban settings are far less important to individuals living in rural areas. This is not to suggest that the basics be compromised. It is to say, however, that a collaborative effort in each state can be sensitive to the differences of residents that are inherent to the diversity of rural and urban areas in our country.

An additional benefit to be achieved from the state-based ALWs is the opportunity for diverse groups with interests in ensuring quality in assisted living to meet and have a dialogue similar to that which occurred at the national level. We believe that these discussions will build relationships and lead to the same discovery that so many ALW participating organizations had: we have more issues in common than differences in opinion.

### **Important Elements of State Oversight Systems for Assisted Living**

To re-emphasize, we believe the state-based ALWs will be an excellent foundation for the creation of partnerships to ensure quality and that the ALW's report will be an

important tool when states conduct their meetings. States should be encouraged to pioneer new ideas and ways to monitor quality in the assisted living setting. Most would agree that replicating the nursing home oversight system in assisted living would be a bad mistake. Unfortunately, a few recommendations resemble the nursing home system and lack innovation. NCAL believes that any oversight system for assisted living should be designed to embrace the following concepts:

- A partnership should exist among providers, residents, family members and regulators to reach the desired goal of quality assisted living;
- Regulators and surveyors responsible for assisted living should receive special training regarding assisted living;
- State oversight agencies should offer technical assistance to assisted living providers upon request;
- Resident, family and staff satisfaction should be an integral component for measuring quality; and,
- Sanctions and fines should be utilized only as a last resort (certain sanctions and fines are punitive but don't automatically result in the long term improvement of a situation or prevent its recurrence.)

### **Two Areas the ALW Did Not Address**

While NCAL is supportive of the ALW, there are two critical areas that the ALW report does not address: the cost balanced against the benefit of the recommendations and the need for long term care financing reform. As providers, we all recognize the need for assisted living residences to be safe and secure environments where residents are confident that a certain level of care and supervision will be provided. We also recognize that it is essential that assisted living remain affordable to the average person. Two-thirds of people living in assisted living residences have annual incomes under \$25,000. We must keep this fact in mind and take a balanced approach when considering requirements that assisted living providers must follow. Many of those requirements ultimately impact the pocketbooks of residents and possibly taxpayers.

The term "affordable assisted living" means more than simply making assisted living *available* for people with limited incomes. It also means *keeping* assisted living affordable for the middle class who do not – and will never – meet eligibility standards for government assistance programs. Unfortunately, the ALW did not consider the cost implications of its recommendations and the impact those increased costs could have on access to assisted living by the average retiree on a fixed income. We believe that state-based ALWs should weigh the cost factors carefully with the benefits residents will receive if a particular recommendation were implemented. We should not simply assume that consumers and providers would have the resources to pay for the additional requirements.

Another omission in the ALW report is the need for a long-range fix for our nation's broken long term care financing system. The ALW recommendations focused primarily on band-aid fixes to existing government long term care financing programs to increase accessibility to assisted living. NCAL supports most of those short-range solutions.

However, long-range solutions are also so people have the resources they need to pay for assisted living and other long term care services in the future.

Over the next 50 years, demographic forces will increasingly threaten the stability of the current long term care financing system. The aging of the baby boom generation and the medical advances resulting in longer life spans will contribute to an increase in the size of the elderly population. According to recently completed research by Abt Associates, between 2000 and 2045, the proportion of the population that is 80 years or older (those most likely to need long term care services) will rise from 3.5% to 7.5% of the population. During this same period, Abt found that the number of workers per retiree would decline dramatically. From a maximum of five workers per retiree in 2005, the ratio will decline to about three workers per retiree in 2030. That means under current law, fewer workers will be paying higher taxes to fund the programs that support retirees. In 2030, for example, each worker will need to pay one-third of the costs per retiree. That constitutes a heavy burden for workers when compared to 1950 when each worker paid one-sixteenth of the costs of a retiree.

The current system for financing consists of an unstable patchwork of federal and state programs with little private (i.e., insurance-based) participation. Most government financing of long term care is through Medicaid. Yet, we are seeing state after state slash their Medicaid programs despite the growing demand from seniors for long term care services. Sadly, it is likely that the drastic Medicaid cuts we are seeing today are just a glimpse of the crisis that is yet to come.

We commend this committee for the work it has done to examine the long term care financing crisis. But we encourage Committee members to continue their efforts to promote the development of a comprehensive solution to ensure that the nation's long-term care needs can be met in the future. To date, Congressional action and debate has been incremental. For example, Congress is to be commended for creation of the federal Employee Health Benefit Program's long term care insurance program. That program is proving to be very successful in promoting private long term care insurance coverage among members of the federal family. There is renewed and growing support for legislation that would provide an "above-the-line" tax deduction to encourage and support a greater number of individuals to purchase long term care insurance and for legislation that would eliminate barriers now preventing additional states from promoting the use of long term care insurance through partnership programs under Medicaid.

NCAL fully supports these incremental steps, but we would encourage this Committee to begin examining how these and other policy approaches can work together as part of a comprehensive solution. That is, we encourage you "to begin with the end in mind." This Committee has the ability to create a clear vision for comprehensive and meaningful LTC financing reform. From that vision, Committee members have the ability to launch a national dialogue and successful Congressional debate.

We must find solutions and reduce reliance on public programs to pay for long term care. NCAL supports enactment of an insurance-based, public/private program for

financing the nation's growing need for long term care services in the future. The program could utilize the tax code to encourage, support and protect individuals who purchase private long term care insurance. Such a private/public system would also move financial responsibility for long term care for the elderly and disabled to the federal level, eliminating long term care coverage for these populations under Medicaid. NCAL's parent organization, the American Health Care Association, outlined reform ideas before this committee last year. We recognize that by empowering individuals to choose the care setting that best meets their needs (home care, assisted living or nursing care), we are empowering consumers with marketplace leverage – leverage that will work to assure the quality, accountability, safety and affordability that we all agree is so important.

**NCAL is Committed to Quality in the Profession**

When we discuss the issue of quality in the assisted living setting, we must remember that it is consumers who have been driving the popularity of and growth in assisted living, not government programs, regulations or funding. This is an important fact to recognize and the primary reason that the assisted living profession's primary focus must always be the assisted living resident.

NCAL further believes that state policymakers should be supportive of research and testing of quality measurement systems based on customer satisfaction and performance outcomes. These are the measures most meaningful to consumers' experiences and most powerful for incorporating continuous quality improvements at the facility level. Outcomes data give facilities the ability to measure their performance over a period of time and identify trends on a facility and individual basis. A benefit to such an approach from a facility operations standpoint is that problems can be quickly identified and solved.

Disclosure of available services and costs is another basic component of quality. NCAL encourages the use of its consumer guide that contains a comprehensive series of questions that NCAL recommends consumers ask before making a final decision to move into a particular assisted living facility. NCAL requests that a copy of this insert be included in the hearing record. NCAL's consumer guide is distributed free of charge to anyone who requests a copy and is also available at <http://www.ncal.org/>.

Assisted living continues to mature and grow. The ALW has contributed to its growth, and we thank Chairman Craig, Senator Breaux and members of the Committee for taking this innovative approach to developing guidelines that states can use for a profession such as assisted living. As we look to the future for assisted living, we must all have a collective interest in ensuring that, in the final analysis, the watchwords associated with assisted living are, "quality," "integrity," "flexibility," and "compassion." Thank you.

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