FLiCRA.COM
850.906.9314

The Resident CONNECTION

4th Quarter 2024

President's Message

As we close out the year, I would be remiss if I didn't mention our annual meeting held in October at Bay Village in Sarasota. The community hosted our meeting and did a fantastic job. Fortunately, they, along with several other CCRCs in the area, did not sustain much damage to their property from the recent hurricanes.

There were two open at-large director seats on the state board and two candidates were unanimously elected by the delegates at the meeting. They are Sondra Thorson, Freedom Plaza, and Betsy Russell from Cypress Cove.

In addition, Hugh Strachan, our treasurer, resigned for health reasons and was replaced by new board member, Jim Neely from Freedom Village. Hugh was a long-time board member and strong proponent of FLiCRA. We are indeed blessed to have had many residents step up over the years to serve as representatives on the state board.

Additionally, I would like to thank Charlotte Cummings, our previous Region 1 Director and board secretary for her service to the board. Charlotte was instrumental in attending a number of meetings with OIR during her tenure as well as a catalyst for our Future Forward Task Force. Gail Husbands of Azalea Trace replaces Charlotte as Region 1 Director.

Our speaker at the annual meeting was U.S. Military graduate, Tommy Gregory, a former member of the Florida State Legislature and current president of the State College of Florida in Manatee County. He spoke about Healthcare Worker Shortages and the spiraling cost of property and auto insurance in the state of Florida. Both are issues of interest to residents of CCRCs.

At the beginning of the year, we moved forward with our Future Forward Task Force Project, which works towards providing educational tools for resident councils.

For all of us, moving into a continuing care retirement community (CCRC) is a big investment and Florida recognizes our contracts as a Specialty Insurance product.

Continued on Page 2

Issue at a Glance

2 2025 Florida Legislative Session Dates and News

3 Industry Advocate Defends CCRC Model After Bankruptcy Attention

4 Senior Living Facilities Face Labor Shortages, Nuclear Verdicts and Changing Insurance Market

7 FLiCRA 2024-2025 Board of Directors

Continued from Page 1

This year, FLiCRA made it a priority that all Florida CCRCs be made aware of the important role of the designated resident representative. This is an important regulation and was put in place to protect the interests of CCRC residents. There has been much discussion on this topic, and perhaps confusion by some.

We have revamped our association website and as of this writing it is up and running. Please take a few minutes and visit www.flicra.com and see what is happening with the state legislature in Tallahassee and with other properties around the state.

I want to take this opportunity to wish all in our FLiCRA family a happy and safe holiday season.

Patricia Burdsall, FLiCRA President

2025 Florida Legislative Session Dates and News

2025 Interim Committee Meeting Schedule

- Week of the 9th December 2024
- Week of the 13th January 2025
- Week of the 20th January 2025
- Week of the 3rd February 2025
- Week of the 10th February 2025
- Week of the 17th February 2025

January 24, 2025 - 5:00 p.m. - All requests for drafts of general bills, memorials, and joint resolutions, including requests for companion bills must be submitted.

February 28, 2025 - 5:00 p.m. - All drafts of general bills, memorials, and joint resolutions, including drafts for companion bills, must be approved to file in final form.

March 4, 2025 - Regular Session convenes

April 19, 2025 - Motion to reconsider made and considered the same day. All bills are immediately certified.

April 22, 2025 - Last day for regularly scheduled committee meetings.

May 2, 2025 - Last day of Regular Session

Continued on Page 8

Published quarterly by the Florida Life Care Residents Association (FLiCRA). Editorial, advertising and publication office: 325 John Knox Road, L103, Tallahassee, FL 32303. . POSTMASTER: Send address change to FLiCRA Resident Connection, Tallahassee, FL 32303. Portions of this magazine are reprinted from sources believed to be reliable but may be incomplete. As part of our commitment to innovation, we may use artificial intelligence technologies in the creation, editing, or enhancement of content. While we strive for accuracy and quality, the views and opinions expressed in this magazine are those of the authors and do not necessarily reflect the perspectives of the FLiCRA. We encourage readers to verify information independently and consult additional sources as needed. The services of an attorney or accountant should be sought in legal and tax matters. Opinions expressed are not necessarily those of FLiCRA.

Industry Advocate Defends CCRC Model After Bankruptcy Attention

The bankruptcy filings of several continuing care retirement/life plan communities have gained the attention of the Wall Street Journal, prompting a letter to the editor from LeadingAge defending the senior living model.

A June article in the national media outlet highlighted the losses that residents and their heirs sustained in the wake of several CCRC bankruptcy filings. In many cases, residents who sold their homes or used their life savings to pay entrance fee deposits they thought were refundable saw those dollars evaporate in bankruptcy cases.

At least 14 CCRCs across the nation have filed for bankruptcy since March 2020, according to a Wall Street Journal review of court filings and Gibbins Advisors, a healthcare restructuring advisory firm. Many residents who paid hefty entrance fees now expect to recover only a fraction of their money. Entrance and other fees vary by community type.

Approximately 1,900 CCRCs operated across the country, with 623,000 residents, as of 2023, according to National Investment Center for Seniors Housing & Care data cited by the media outlet. Residents sometimes put down entrance fee deposits ranging from about $200,000 to more than $1 million. New residents' deposits pay for former residents' refunds under certain CCRC models.

When those CCRCs file for Chapter 11 bankruptcy protections, however, there are no new resident deposits coming in, and other debt - including bondholder and mortgage loans - are paid before any remaining assets trickle down to residents and their families.

Earlier this spring, residents of Friendship Village of Schaumburg, IL, discovered they would receive approximately 10% of their deposits in the wake of the CCRC's bankruptcy filing.

'Highly idiosyncratic'

In a letter to the editor, LeadingAge President and CEO Katie Smith Sloan noted that CCRC bankruptcies are rare: less than 1% of CCRCs have gone bankrupt since 2020. She also called those bankruptcies "highly idiosyncratic, with unique circumstances that aren't endemic to the CCRC model."

Sloan also said that robust resident protections exist. For instance, some states, she said, require CCRCs to maintain escrow accounts for entrance fee refunds, debt service, and operating expenses, and some states require CCRCs to submit to periodic actuarial and in-depth financial reviews to protect against losses.''

Many CCRCs "voluntarily engage in these and other fiduciary practices," the CEO added.

LeadingAge Director of Life Care Communities Services and Policy Dee Pekruhn also provided commentary about those protections in the original article, adding that engaging in a CCRC contract is a "major decision" for residents, who should seek input from a legal or financial adviser before signing a CCRC contract.

Two Florida CCRCs Filed Bankruptcy Since 2023

Arlington of Naples in 2023 - now owned and operated as a CCRC by Life Care Services:

https://seniorshousingbusiness.com/grandbridge-negotiates-81m-bankruptcy-sale-of-the-arlington-at-naples-in-florida/

Unisen Senior Living in 2024 - Owner of the CCRC shut the community down and the remaining 90 residents moved to other CCRCs or other living arrangements:

https://www.tampabay.com/news/florida-politics/2024/04/11/florida-retirement-community-senior-bankruptcy-unisen-insurance/

Source: Industry advocate defends CCRC model after bankruptcy attention - McKnight's Senior Living

Senior Living Facilities Face Labor Shortages, Nuclear Verdicts and Changing Insurance Market

Continuing worker shortages, the threat of nuclear verdicts in some geographical locations, and the implementation of new technology are all shaping the property/casualty insurance market for senior living facilities.

Challenging areas for coverage can vary by location, experts say, and while new carrier interest and capacity has driven some competition on the liability side, some carriers have completely exited the space. At least one expert believes more carriers may pull back and tighten their appetites as the market cycle continues.

Overview by Line

The senior living market differs by line of coverage and location, Alex Whipple, senior vice president of senior living practice at CAC Specialty, said in an interview with Insurance Journal.

Overall, he characterized the professional liability and general liability markets as still favorable for senior living operators, adding that new capacity has entered the market in the past year and a half.

"But I say that with an asterisk," he added. "There are venues that are very unfavorable. So, the favorability of the market is very dependent on the venue, the geographic location of the communities." California; Cook County, Illinois; Florida; New Mexico and Kentucky, for example, are challenging regardless of market conditions, "but here we are in a fairly favorable market, and those markets are still challenged," Whipple said.

He attributes this to the activity and climate of plaintiff attorneys targeting the segment in these areas. The combination of favorable plaintiff conditions and high amounts of plaintiffs focused on the senior living space make them more challenging to operate.

David Thurber, senior vice president, legal, at CAC Specialty's senior living practice, also listed Colorado, Michigan, Oregon and Washington as challenging states. "We see a lot ... of litigation, and we see a lot of much higher starting points for settlements and ultimately verdicts if we get into a trial," Thurber said. "Those kinds of numbers really do drive ... the rates and the response to the coverage in those particular states."

From a property insurance perspective, Whipple said the market has improved since hardening after Hurricane Ian in 2022, "but I would describe the property market as 'fragile' or 'fickle,'" he added. "It's favorable right now, we're seeing better renewals, we're seeing decreases on renewals, but as soon as we have a bad hurricane season, which is what is predicted, that could all be flipped upside down."

Management liability lines are still in a "relatively soft market," Whipple added, however, auto liability insurance continues to be challenging in the senior living industry and beyond.

According to WTW's report, 2024 Spring Update - Senior living and long-term care, general and professional liability with favorable loss experience and location report rates range from flat to increases of 20%. Non-cat exposed property rates changes average from 0% to plus 10% but CAT exposed property increases range from 10% to 20%. WTW reported auto rates for the sector continue to trend up with 7.5% to 17.5% increases on average.

Meanwhile, according to Alera Group's 2024 Property and Casualty Market Outlook that was published in December, underwriters see senior care facilities "as high-risk because many are wood frame construction, prone to fire and other types of catastrophic damage," the report said.

Alera Group reported that most clients "will see rate increases in 2024, with operators in catastrophe-prone areas seeing the most significant increase. Obtaining coverage in coastal communities and areas prone to wildfires will be "extremely difficult," the report said.

Still, Alera Group expected property rate increases to moderate barring extraordinary catastrophes in 2024.

Overall, it's a mixed bag when it comes to market conditions that vary across lines of coverage and by geographic location, but there are new carriers interested when it comes to the professional and general liability side for senior living facilities, Whipple said.

Even so, some carriers who previously underwrote senior living facilities have completely exited the space altogether, he said. Those carriers that exited the space were pricing on the lower end of the pricing spectrum, he added.

Whipple expects to see a few more changes in the marketplace in the next year or so. "We are starting to see other carriers that have taken notice," he said, "and we would predict that there are other carriers that might pull back and tighten their appetite based on some of those other carriers who have exited. It's yet to happen, but I would predict that there are a few carriers who might follow suit in the next 12 to 18 months."

In the Northwest, 'There's No Layups'

Michael Ebert, managing partner at Western Pacific Partners Group, explained that in the Northwest U.S., minimal competition and underwriting restrictions are creating a challenging environment. His team continues to see a hard market in the region.

"When we say hard, it doesn't mean just hard in rates," he said. "It means it's hard to find good insurance for the right people."

WPPG has 3,000 clients in the Northwest U.S. and specializes in insuring smaller senior spaces that usually have 12 or fewer beds. Facilities matter more than ever before, Ebert shared, noting that WPPG has seen "several carriers pull out from new business."

He said they are seeing "minimal competition, and the property/casualty rates on this line of business in this area still seem to be in that 25% a year range. It's heavy. And underwriting restrictions are tightening up. It's true. It's difficult."

Property stands out as the most challenging line, Ebert said, adding that property markets "seem to be evaporating," making the surplus lines "a go-to market, which it never was."

WPPG formerly had carriers that would write only property coverage for their clients, "and they're just hands up at this point," he said. As a result, WPPG has had to tap surplus lines more in the past 18 months than all its previous history combined.

"At the end of the day, it's all heavy handed," Ebert said of lines across the board. "It's all difficult right now. There's no layups at all."

Brant Watson, senior vice president and caregiver niche practice leader at California-based Heffernan Insurance Brokers, told Insurance Journal that in tougher venues in and outside of California, most liability coverage is being placed with non-admitted carriers on a claims-made basis. "Even owner/operators that have a good licensure and litigation history are facing renewals where liability deductibles and premiums are under upward pressure," he said.

Lawsuits and Inflation

In many cases, lawsuits against senior living facilities don't necessarily come down to the quality of care received, Whipple said. Instead, it comes down to litigation environments and plaintiff attorney tactics.

Plaintiff lawyers use an emotional playbook that exists within what CAC Specialty's Thurber described as "a new and evolving national culture" toward money, victims and compensation that extends into the court system.

In Washington state, Ebert described the space as "very litigious" and "very sensitive." That makes it even more important for his team members to offer and secure all potential ancillary coverage lines, he said. Documenting when coverage is rejected is key, too.

Continued on Page 6

Continued from Page 5

"It all matters when lawsuits come out," Ebert said. "We've gone through quite a few of them. They look at us with a fine-tooth comb. You better have done all of your due diligence."

Slips and falls drive claims in the senior living industry. Wound care and wound claims are also claim drivers, Thurber said. Ebert also pointed to heatstroke that can lead to death, as well as choking incidents and more that can lead to potential nuclear verdicts.

Carriers are cautious in defending elder abuse cases in court due to nuclear verdict and social inflation influences in the legal system, said Heffernan's Watson. That has led to a rise in mediated settlements, which are becoming more and more common. That can frustrate insureds in claims scenarios where it is felt allegations are frivolous or defensible, Watson added.

Worker Shortage

As the U.S. population ages and the demand for senior living facilities increases, challenges over worker shortages will persist at nursing homes and other care facilities.

The American Health Care Association reported in March that 99% of nursing homes currently have open jobs, including 89% that are actively trying to hire for open registered nurse positions.

Seventy-two percent of nursing homes said their current workforce levels are lower than pre-pandemic staffing levels, and more than half said their workforce situation has stayed the same or gotten worse.

"Our updated State of the Sector Report demonstrates clearly what nursing home providers across the country already know: the ongoing labor shortage is nothing less than a crisis for our sector," Mark Parkinson, president and CEO of AHCA, said in a press release.

The labor shortage challenges will continue as the demand for senior living facilities grows. According to recent U.S. Census data, the number of Americans ages 65 and older is expected to grow from 58 million in 2022 to 82 million by 2050, while the total percentage of the U.S. population 64-and-older is projected to rise from 17% to 23%.

Heffernan's Watson said the senior living facility industry has had challenges in attracting and maintaining staffing levels due to wage level competition from other sectors of the economy and the challenging but rewarding aspects of the caregiving vocation.

From WPPG's perspective, the caregiver shortage is very real, Ebert said. He said that the labor shortage in the sector has not recovered to pre-pandemic levels, adding that all his clients in this sector share that struggle: They can't find enough caregivers, he said.

From an underwriter's perspective, the labor shortage is a concern. "That means folks with inadequate capabilities are employed at these places," Ebert said. "Which creates higher risk across the board."

Claims and Risk Management

When it comes to claims mitigation and working toward reasonable verdicts and settlements, Whipple explained that the team at CAC Specialty works to integrate themselves into the culture of the operators to coach and train them on being as defensible as possible.

"We know operators are going to face litigation. It's not if, but when," he said. "So, preparing them to be as defensible as possible is a strategy that we cannot emphasize enough."

Documentation is the leading issue that drives lawsuits, CAC's Thurber explained, highlighting the importance of documenting in a timely and accurate fashion and responding to issues raised in health care charts. It's also important that a file demonstrates progressive interventions on a regular basis regarding what's being done to mitigate a resident's propensity for falling, developing wounds, or elopement.

AI as a Management Resource
Thurber believes artificial intelligence (AI) can be an effective risk management resource. It can aid predictability and care of residents by providing real-time alerts to deviations in behavior, he said, enabling staff to respond in a timely manner to changing conditions.

AI can also provide for a "much quicker and a more sophisticated collaborative decision-making process to address resident conditions more efficiently," Thurber added.

Medication analysis done through an AI program, for example, can help senior care staff assess whether a combination of medications is driving certain conditions, or if there's a health risk associated with the combination, according to Thurber. The AI could flag those risks and enable the professionals involved to respond quickly and accurately.

AI-enabled "nurse on a stick" technology allows nurses to enter vitals data immediately and uses artificial intelligence to compare that data to historical vitals data on the resident. It flags significant changes that could require immediate intervention or analysis. This can help health professionals address issues before they become problems, Thurber said.

As nurses enter other health care observations into files, current AI technology can quickly analyze the input against prior inputs and can identify and bring attention to issues to help nurses, doctors and facilities catch and address potential problems before they result in hospital and emergency room visits.

"A couple clients that are already using these kinds of tools are reporting back that it is reducing the number of hospitalizations in their environment," Thurber said. "It's helpful for them to be able to provide better quality care that is more timely and efficient," he said.

"Does it eliminate the issues and claims?" Not completely, Thurber noted. "But it certainly helps mitigate that and provides a more defensible position should the ultimate matter end up in a lawsuit or a claim. We're doing the best we can with what we have, and we're getting more and more of these tools all the time."

Source: Senior Living Facilities Face Labor Shortages, Nuclear Verdicts and Changing Insurance Market - MyNewMarkets.com Articles about Property Casualty Insurance Coverages

FLiCRA 2024-2025 Board of Directors

Left to Right: Fred Falkner, Director at-Large; Tom Gire, Region 8 Director; Gary Hughes, Region 2 Director; Patricia Burdsall, President; Dave Bayer, Region 5 Director; Cindy Barber, Region 6 Director; Jim Neely, Treasurer; Sondra Thorson, Director at-Large; Gail Husbands, Region 1 Director; Betsy Russell, Secretary; Ray Neff, Region 7 Director and George Dann, Region 4 Director

Not Pictured: Kenneth Shanahan, Vice President; Richard Greatwood, Region 3 Director

FLiCRA
325 John Knox Rd
Ste L103
Tallahassee, FL 32303
FLiCRA.com

2025 Florida Legislative Session Dates and News Cont.

Continued from Page 2

New House of Representative Rules for Combined Workgroups
Speaker of the House Daniel Perez has updated guidance for House members for the 2025 session. This is a new concept that will be a unique feature of the Florida House designed to facilitate greater member engagement and dialogue on critical issues.

A combined workgroup will be a forum for an intensive examination of a single issue across multiple subject matter jurisdictions.

The chairs of the committees or subcommittees forming the workgroup would select the members of the workgroup, and one member would be chosen as the Workgroup Manager. They would meet over a short period of time (e.g., 14 days) and have a 24-hour meeting notice. The combined workgroup would facilitate an open conversation between members. Unlike a select committee, these recommendations would not be in the form of a report generated by staff, but would be made by motion by members in an open meeting. The resulting work product could be considered as the basis for a proposed committee bill by one of the involved committees or subcommittees.

Committee Process
Speaker Perez has put forth that all House members are required to ask a committee chair in writing to place a sponsored bill on the committee agenda. With that formal request the House member must also include information on the anticipated Senate companion bill.

To ensure legislators have more knowledge of what they are voting on, Speaker Perez has also put forth that the sponsoring member of a bill is expected to work their bills before the actual committee hearing and fully engage not only with the committee chairs, but with all members of the specific committee of reference.