

Letters& - A Newsletter of Letters and Writings



ADDRESSO'SET PUBLICATIONS

Volume 1, Issue 2

November 2, 2009

Reformatted June 7, 2011

Franklin H. Ernst Jr., M.D. wrote the following letter; it was sent out in October of 1985.

Life Shortening ... Actions of California Community Care Licensing

October 14, 1985

Don Sebastiani,
Assemblyman, 8th California District
561 Broadway,
Sonoma, California 95476

Ref: Life Shortening, Illness Aggravating Health Hazards from the Actions of California Community Care Licensing

Dear Don,

I need the help of your office to slow down, if not stop the increasing numbers of unreasonably abrupt, repeated transfers of certain of your constituents from one home to another against their will. These actions by California Department of Social Services, Division of Community Care Licensing, have had and continue to have severely adverse effects on the health of both the mentally ill and the elderly who are patients in my care. On Thursday September 12, 1985 without any advanced warning to either myself, their home-visiting physician, nor to any of the people living there, themselves, Community Care Licensing suddenly swooped down on 115 Thayer Way, Vallejo in southern Napa County and ordered the individual residents living there to leave [immediately].

I apologize for the lengthiness of this letter. I did feel it was necessary to go into some extended explanations and illustrations in order to transpose my medical information into more understandable terms AND because of the multifaceted complexity of the problem. Additionally, while the effects are primarily medical, the reasons for the present structure of the problem would appear to be political. While, to a non-legalist, there would appear to be both Constitutional and State law considerations here, these are not my main thrust in writing. My goal is to enlist your political assistance in order to reduce the amount of suffering passed onto the elderly, the ill and infirm and the homeless that is arising out of the actions of this State police agency.

On 9-12-85, as on any other day that State Licensing raids a home, here were 15 harmless, essentially reasonable individuals, perhaps confused and bewildered by all the up rooting actions being carried on against their persons. All were yanked off, separated and dispersed across the counties, carried off, regardless of any personal preference. Without any semblance of asking their permission, their rooms were invaded by unknowns, their meager personal possessions inspected and

Special points of interest:

- LICENSING "KIDNAPPED" ALL RESIDENTS
- CLINICAL EXAMPLE OF TRAUMA
- DELETERIOUS EFFECTS OF TARGETED "INSPECTIONS" BY CCCL
- RESIDENTS' PERSPECTIVE
- RECOMMENDATIONS

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presumably packed by strangers in their entirety. They were given no property slip or inventory slip by those who took their property.

Licensing "kidnapped" all residents regardless of their wishes, requests or objections. These CCL representatives appeared to have coordinated their actions quite well, in view of the command performance of numbers of other social workers, Ombudsmen and armed police whom they ordered to appear, and who showed up simultaneously to force the residents living there into instant, subservient, obedient compliance to Licensing's order. Among those forced out were several in my medical-psychiatric care. Only one of them had been adjudged in need of a conservator. Another whom I had in the past thought needed a conservator had been adjudged not in need of one by Napa County authorities.

All of my patients had some form of medical-psychiatric illness that necessitated regular ongoing home visits, prescribing and periodic referrals for physical problems requiring additional specialty care. All in this particular instance were elderly. All liked their home there. None of them wanted to move, let alone was asking to move. Not one of them was asked. They were just ordered out. True, Licensing had mandated that the various subordinate County Social Service agents participating in this raid must find these individuals another bed before nightfall and they did. There did not appear to have been any regard given to the preservation of their relationships to each other and staff, of the dignity of the persons so suddenly dispossessed of their home, let alone any regard for any of their rights, such as preservation of privacy, invasion of their living space, rights against search and seizure of person and property, innocence until proven guilty, right to call or talk to anyone else before being so unceremoniously TOLD "leave", then carried off. In at least one case, this was against her own expressed objection, as she told me later when I finally found her. All in my care were effectively "disappeared." I was actively kept in the dark before, during and pretty much even after this well planned, well-disciplined and coordinated attack on their lives AND I was the only person outside the home committed to their welfare in an ongoing regular basis. Eventually, after some investigative work I was able to find all but one of the disappeared before nightfall but not until after spending a good period of time talking to one of the still terrified, fearful employees at the now evacuated residence. She appeared to have been so intimidated by Licensing that she first forgot knowing, then apparently also thought she was required to withhold from me knowing where some of the people had been sent. Eventually she recovered enough and was reassured sufficiently that she was able to tell where most of them had been taken. She had no idea where the last of those in my care had been transported, only that someone from Solano County Welfare Department had left with her in a car. From among all of my patients there, agents operating under the orders of CCCL notified me of the whereabouts of only one, and that after the fact.

I was very (negatively) impressed by, the total ineffectiveness of any of the Ombudsman members involved in this. None of my patients described any counseling from them or protection of their rights, let alone intervention, let alone any inquiry to my patients about any objections they might have, let alone any protection of their property, as it was hurriedly crated (for them) by these other agents. I received no calls from any Ombudsman about where any of my patients "had been forwarded to." Are these new Ombudsmen being trained now to see the physician as the enemy also?

On first moving to this place months and years before, all the residents had been required to sign room and board agreements with their landlord. I'm not sure, but don't people who sign these forms of agreements have some reasonable right to expect to know where they will be tonight when they get up in the morning? If they should have given up this expectation because they got older or became incapacitated but well enough to live back in the community, I had not previously heard about it until the advent of these actions by Community Care Licensing.

MEDICAL

I want to go a bit into the information given to me, which formed the so-called basis of this raid by these terrorists. Before that, however, I will briefly discuss some general medical effects from acts such as these when inflicted onto older persons plus describe some personal observations about what has happened in some individual cases following Licensing mandated transfers in this and other actions involving patients of mine, constituents of yours.

There is a medical rule of thumb in the care of the elderly. "Each move causes a 20% mortality." Certainly this

is in line with the Scottish proverb "Three moves is worse than a fire", except that in the elderly it only takes two. Many elderly require the medical management of more than one physical and/or psychiatric problem at the same time. These problems are best handled both from the person's point of view and from a health standpoint by what is called "continuity of relationship." This more often is in the person of the physician when available. (Sometimes lacking that, regular ongoing visits by a spouse, committed friend or adult child of a patient may make up some the difference in the patient's health care.) The alternative, which is referred as "continuity of services" is impersonal, has been shown repeatedly as not particularly yielding of health benefits to a person. "Continuity of services" is the best a bureaucracy can respond with when they deprive a person of "continuity of relationship."

In a paper I wrote many years ago, it was found, for example, that many cases of ALZHEIMER'S DISEASE are precipitated by major stress, such as forced moving. We found in other cases that the rate at which the Alzheimer's disease progressed, was increased directly after a move. Heart attacks and strokes were more frequent in these older people directly after moving. These findings have been substantiated many times over by other researchers since. Thus, over the years, it has been found medically best to reduce these as much as possible and then when absolutely required, to then deal with older people so confronted with moves like this as if it were a life threatening emergency. By adopting this approach of re-establishing the continuity of relationship as soon as at all possible within 24 hours, especially in the cases of sudden unexpected moves of older persons, some of us in this special area of medical work have kept the mortality from these moves from being excessive.

Specifically, one 82 year women was evicted from her home of some five years by an abrupt, unannounced Licensing action three months before the event being cited here. Within ten days she suffered her first, a mild stroke while in the new Board and Care home to which she had been assigned. She absolutely refused to consider any convalescent hospitalization and what with the quality of care being given and her rapid activating of herself it was medically decided to keep her there. She was making rather good recovery, was continent, walking, recovered speech pretty much. About a month before the raid noted above, I will call her Gwen, was again disappeared. A "niece and nephew" story was given but it was the precipitate "Adult Protective Services" social worker who, in fact jerked Gwen away from this second home and deposited her in a third home in less than three months. For three weeks no reachable official in Napa County Social Services or in Napa County Mental Health Services could tell me where Gwen had been carried off to. When Gwen's whereabouts were finally tracked down, the particular social worker's explanation for her action with Gwen was: "I had to do it in a hurry, because my schedule was so tight." No reason was given for the hurry, for breaking off all ongoing medical care, not notifying myself (or for concealing the move from me?). Gwen has a heart condition requiring multiple medications which have to be monitored. She had been carried away 20 miles from her former internist. Finding Gwen again, her meds could be re-ordered, directions for these given to the new pharmacist, new caretaker told what to watch for in Gwen's medical condition. After an extended discussion with the new B & C owner about the social-worker-ordered referral of Gwen to a new woman doctor in town, it was decided to get the assistance of another local internist Gwen knew and preferred from years before. Preservation of some form of "continuity of relationship" was considered to have priority over and above new medical technology this younger physician might possibly possess.

Alice, approaching middle age, was beginning to do better after 18 years of se-

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vere mental illness. Three years ago she was referred to 115 Thayer Way because the circumstances there were more suitable for her potential improvement. For the first time in 18 years she wanted to and did stay in the same home on her own volition. The signs and symptoms of her illness decreased. She began to take her medication more regularly, did not suffer grave and severe deterioration requiring a re-hospitalization for more than ten months. She liked being with the older people there, stabilized well, discontinued leaving the premises at irregular hours for days on end. Then a social worker in Napa Continuing Care Mental Health Services called the home and told the caretaker that Alice had to be moved immediately, something about Licensing no longer permitting the home where Alice was showing this improvement, to have "younger patients." A medical order was written and signed in Alice's chart at this home stating that moving Alice was medically specifically contra-indicated. Instead, the Continuing Care social worker wrote Licensing a letter that he was moving Alice to another Care home, even though this second home also, as he said in his letter to Licensing, was not approved to have younger people in it either. Confusing? I too, get confused at these contradictions.

Alice refused to move. Her caretaker was threatened with fines. Alice moved but for five days running went back to the previous home asking to live there. She was refused. The Caretaker was unable to have afforded the \$50.00 per day fine Licensing levied for such action. Within three weeks of this police backed move, Alice had again become acutely disturbed, unmanageable, leaving home without letting anyone know where she was going and shortly required re-hospitalization. In the two years since, she has had repeated instances of grave and severe deterioration of her condition, has had to be re-hospitalized, by her own count at least eight times, three times so far this year. Immediately after release she would each time go out to hunt up her older friends in their 70s, forget to come home, forget her medication, forget her doctor appointments, followed shortly then by the hospital again. In Alice's case, Licensing based action has been the single most damaging event in her past two years of continuing illness.

Hilda had not talked for about thirty years when she was first referred to me for treatment. Three years of minimal medical-psychiatric work with her and the staff where she was living led to the beginning of some words of self expression. Then a few years ago in one of those typical, sudden blitzkrieg moves, her home was raided by Licensing, "for good and sufficient reasons." THIS IS DESPITE THE WELL MOTIVATED AND COMPASSIONATE CARE GIVEN TO HER IN HER SUBSEQUENT THREE HOMES.

Roy, almost 70, productively still active, was suddenly moved from his home because of Licensing a few months ago. Quite capable of "independent living", he was paying his bills with reliability. He still wanted to return to his old home, which had been shut down. He did find ways to continue to visit it. The new owner understood this as did his doctor. Without any medical consultation, however, his "Adult Protective Services" social worker began to initiate conservatorship papers on him. Getting wind of this move, his doctor gave Roy a signed slip certifying that Roy was competent to provide himself with his own food, clothing and shelter which took care of the situation for a while.

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Sharon, 70, divorced, the object of considerable, sudden-onset abuse in her marriage some 45 years earlier (her husband would beat her), was abruptly moved, in this most recent case. When she was younger she could take care of herself and two infant daughters and get away to find a new home, one free from home-style terror. She was one of those who very definitely did not want to move last month. She had a good home, one safe from inside and outside terrors, or so she thought. One day out of the blue a strange woman appeared in her home to tell her she had to move, NOW. Where to? That did not matter, she was told. Being older, not having the coin to call someone else, not being allowed time to collect herself, let alone told what recourses if any she had, she was just hustled along, told to pack her things as her few personal possessions were being boxed for her, helter-skelter, by someone she had never seen before. To keep from losing too many of her few possessions she assisted. She moved. You ever get caught up in one of those situations where all of a sudden you are completely overwhelmed by an overwhelming number of people and forces. She tried to cooperate best way she could. She is legally sane, takes her medications as directed, and appreciates the assistance in taking them in a timely manner. When I finally saw her early the next morning she looked OK. Being pretty smart, she had already figured out I could not have prevented her being moved, that she did have to be rather careful what she said now in the new home, that she could not count on not being moved out and re-terrorized suddenly again in the next few days. It was not clear to her why she had to move. From her perspective of wanting to survive, if she could, she was agreeable, pleasant, did the very reasonable thing of beginning to find good qualities to praise to me about her new setting, began to make a few unfavorable comparisons about the place she had just been jerked out of. From her point of view this seemed to me to be the smart thing for her to do. This is especially sensible if you are helpless to do much to control the actions of an immense bureaucracy, which is intent on a program of its own, regardless of what it does to your own life. When seen that next morning and at that point in her life there was little sense in reminding her of the similarities to the terror and abuse she had suffered at the hands of her husband in her younger days. It is still going to be several months before we will know if she is going to escape the recurrence of one of the three major disabilities she has suffered and made a fairly good recovery from in recent years. She has living children. Although in periodic contact with her children, they were not notified by any of the many social worker, police agents involved about where Sharon had been moved.

Harriet, 75 then, a few years ago was similarly moved by a sudden Licensing action, from her Board and Care home where she had lived for over a decade. In spite of treating the shock to her emotional life then as a medical-psychiatric emergency, she came up with a severe, almost fatal case of a quite rare illness in less than three weeks. Who is to say the move caused the illness? Who is to say the \$20,000 hospital bill to the State and subsequent need for continuing care three times as restrictive and three times as expensive was caused by Licensing's action? The facts of the sequence of events remains, added to the repeated numbers of cases in which a similar sequence has unfolded.

Recently a case was referred to me by a local Convalescent Hospital. Maude, a 92 year old widow, was a recent admission. She was for ten days, it seemed endlessly moaning, piercingly crying out, calling out in such a pitiful way that it was almost impossible for her roommates to sleep. Sedate her? Her system could not have handled the amount that would give her one night's sleep that same night after her case was first

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evaluated by me. Listening to her say: "I want to die!" over and over. Other than her obvious extreme emotional suffering and advanced age there was little physically or mentally wrong with her. She had apparently begun to adjust to another convalescent hospital, her first entry to a convalescent hospital, a few weeks earlier. But then it turned out that her family suddenly decided to move her from where she had begun to adjust herself. That first convalescent hospital, more recently we saw in the Napa Valley Times, received a well publicized brown mark across their name, painted there by Licensing as they got to use their brand new, shiny "AA Citation" against that place. I do not yet know what the sequence of events was within her family that led to their decision to precipitately move her to this second convalescent hospital where as she says she has no friends and no one in the family now comes to see her at all.

I am, however, aware of the equivalent of a "poison pen letter" to the family of another, a 79 year old woman's family, advising them they should move their mother. That letter was from Licensing:

"...This letter is to advise you that on July 23, 1985, we received

two substantiated complaints regarding (named facility), and that the allegations are very serious: 1.) The facility has been unable to obtain a fire clearance from the State Fire Marshall and 2.) On July 22, 1985, staff were unable to properly respond to an emergency, which may have contributed to the death of a client.

"Based on these allegations, we are recommending denial of the facility's application for licensure, and we are sending our recommendation to our legal department for processing."

This latter family had had considerable experience with this particular home and had found over a several year period that in fact their mother was receiving very good, quality home care, thus were not frightened out of confidence in the home. This was despite this reputation damaging warning about the home from Licensing. Sharon's daughter, I more recently learned, also received an identical letter. She was outraged with Licensing's unrealistic accusations at the facility, which she had personal awareness of and her mother very much wanted to continue living in.

I have, however, had some other patients who were suddenly, after years of satisfaction in that same home, withdrawn by their relatives with no explanation given, in the month or so before this last identified letter came to my attention.

MORE CASE EXAMPLES:

Essie, 78, a few years back, had gotten her weight almost back up to 94 lbs after seven months of quality care in one of these homes. Suddenly she was uprooted and jerked out by order of Licensing, regardless of any roots she had there or what her daughter thought would be best. In fact, neither Essie, nor her daughter, nor her home visiting physician were consulted. Essie quit eating again, became incontinent, was hospitalized. She survived almost three more weeks after this, her last move in life.

Charlotte, 62, another victim of State Licensing a few years ago has since been afflicted to this point in time with unyielding hypertension and obesity. Charlotte had a lobotomy almost 40 years ago. She did not suffer the same degree of problems after that, that she is suffering now. Forty years ago this procedure was only done after careful and extensive medical studies, weighing the potential medical and social consequences to the person. As it turns out now, in Charlotte's life anyhow, that one Licensing ordered move has been worse than a lobotomy.

Bennie, 77, after his experience with Licensing, could not be reassured, kept asking ever after, until he died a year later, about what crime 'did he commit' that required him to move.

Lou, 55, prone to seizures for years, had a massive series of seizures that almost took her life exactly 28 weeks after she had been dealt with so severely by Licensing. The 28 week interval of time is of considerable medical significance. Her seizures occurring at this particularly significant biological interval after being moved was one of the clearest pieces of medical evidence incriminating the probable cause and effect relationship between a Licensing blitzkrieg and an ensuing illness.

Russell, 80, previously in decent health, good memory, normal blood pressure, was the recipient a few weeks ago of, as he says a "kidnapping." Now his blood pressure is high, 180/90 and he is only gradually recovering from a severely disabling confusion.

Lorna, 60, many hospitalizations and dozens of placements over a majority of her life for a mental illness, had stabilized for three years in the place that was disassembled on 9-12-85. In the four weeks since being yanked out of that stabilizing environment, she has already started showing signs of her illness coming back, eg running away from there, three times. Police had to be called twice to find her. Her new home is also a good home. BUT THE DISCONTINUITY OF RELATIONSHIP is taking its inevitable toll on her life. She is again balking at taking her medications, medications that help to calm down her otherwise almost continuous agitation and before had made it possible for her to participate in increasing numbers of rehabilitative activities. We've got our fingers crossed if we will be able to prevent another major episode of severe deterioration in her case.

Ellen, 83, good clear head and not depressed until the action against her person a few weeks ago, now is talking about the death of herself. There are other cases to go into, but perhaps these are enough for now.

BASIS OF LICENSING ACTION

One of the well functioning, healthy atmosphere B & C home I was attending about three years ago had a client Paranoid Personality Paul, about 45, not my patient. Paul would not pay his rent. He had been referred there by Napa Continuing Care Services. He was dangerous, threatening patients, staff and visitors, in fact striking them at times. I, myself was the object of his threats more than once on my attending visits. My recommendation that he be moved apparently fell on deaf ears. That home was unable to get any help from the various services of the County. County did not even assign a sub-payee for Paul which would have assured that his room and board bills were being paid from his monthly SSI check. Dangerous? Yes he was. He would hit a patient, the sheriff would be called and come and calm Paul down, then leave and Paul would start up again with more ominous threats. As told to me, the Napa Continuing Care Services worker assigned to Paul's case refused to move him, gave not one bit of assistance. After four months of not getting paid, of repeatedly getting struck, and subjected to the abusive tongue and temper tantrums, Paul was evicted. He threatened dire consequences as he left. Apparently his first action was to go over to Santa Rosa Office of Community Care Licensing. There it would appear he found a most receptive and sympathetic audience who was only too eager to give every measure of credence to his every accusation as he poured out his long list of grievances. Four days after his eviction he ostensibly returned to claim his possessions. Within 10 minutes of his departure a severe fire broke out in one of the various rooms he had been rummaging in. One room completely gutted. After the fire, other patients reported to me his earlier stories of burning other places down.

But that apparently wasn't the end of P P Paul's revenge. It would seem that Santa Rosa Licensing took Paul's reports at face value. Within days they began a series

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of "investigations", "inspections" and citations and "new regulations" that lasted until the place was eventually forced out of business. Among other reprisals against that place was to effectively blackball it for any referrals of new clients from the primary source, Napa Continuing Care Services, as vacancies would occur.

Directly after Paranoid Paul's visit to the Santa Rosa Licensing office, that home was placed on a starvation diet of referrals from local Napa Mental Health Continuing Care. On early inquiry one worker did confirm to me that Licensing had ordered them to stop any more referrals to that home. Subsequent efforts on my part to get additional verification of this fact were met by denials. Over the next two years I was witness to several surprise inspections by Licensing as I would be in attendance. I did not spend that much time there either, maybe once every two or three weeks. So when owner and staff would tell me about the rate of "inspections" so markedly accelerating after PP Paul's departure and threat of revenge, the evidence was in front of my eyes. This was a good home, good for the patients in my care, good for their health. It may have been that this owner was being penalized because he was Filipino, was law abiding, could not believe his own enterprise would be the object of State ordered, selective ruination. Instead of defending himself against Licensing, he concentrated on getting-on-with the care of the people in his charge and attempts to get-on-with Licensing personnel. It seems he would have done much better if he had sought legal assistance.

As told to me, it was not more than two weeks after Paranoid Paul's first visit to Santa Rosa that there was the initiation of that integrated balanced program of Board and Care Home destruction by Licensing, an unrelenting series of "new" regulatory requirements including to transfer out patients who in fact were medically doing much better than random chance would have predicted and firmly requesting to stay. There was the arbitrary CCL worker decision requiring a new color of paint in a bathroom, worker didn't like the present color. Owner was ordered to put up new drapes to replace the six months earlier newly purchased and hung, "Those don't look to me like they are fire resistant enough." This was despite sales slip showing fire retardant, etc.

There were the threats to fine the owner if he did not evict the people who wanted to stay, even those for whom it was written down as medically contra-indicated to transfer out, such as Alice: an accelerating pace of "inspections", multiple visits per week, up to two in a day, always looking for something to fault the owner about. After years of this harassing of the owner he finally gave up. He left after finding someone else who would take over, someone who had been explicitly assured and clearly led to believe by Licensing there would be, as reported to me on several occasions, "No problem getting the License." There has been. Again a series of technicalities, continuations, always a rationalization, ostensibly plausible reasons, BUT ALWAYS that bureaucratic DELAY until finally the home was totally demolished as then constituted.

According to the information given to me, the 9-12-85 raid action by Licensing against patients in my care at 115 Thayer Way, Vallejo in southern Napa County, was based on the fact that an elderly woman at that same residence died a few months earlier from what on description sounded clinically like a myocardial infarct. "One of the paramedics" arriving on the scene minutes later, however, being an extra on the scene, instead interrogated, grilled and so frightened one of the staff in attendance on the deceased, -- giving the attending staff member, as it were, an on-the-spot, harshly toned, impatient, accusatorily worded test on CPR, right there in front of the other patients. In fact, the description I heard would indicate that a good quality CPR was given, -- not a Red-Cross teacher's style of CPR with both words and accompanying actions, but real CPR. Were my own life at stake I would rather it were in the hands and intentions of the personnel in that home then, than up to either this griller who came onto the scene or any Licensing personnel.

A second basis for supposedly tearing apart this previously well functioning facility for the homeless, the psychiatrically and medically infirm, as I have been told, was that the next day after this death from natural causes of that very old woman there was the descent onto the place of a local "fire marshal." It was almost as if he had been called earlier that same day and told to come immediately. As I heard it, during the inspection a fully operational readily available fire extinguisher was found to be due to be certified again in the next 10 days or may have been

overdue a few days for the local extinguisher company's recertification. Did State Licensing intervene with the State Fire Marshal's Office or was this refusal to recertify updated fire extinguishers a local effort?

DELETERIOUS EFFECTS

If any proximate cause were going to be assigned to any basic lack of care of the residents there, VERY high on the list would have to be the continual, by some called "harassing", inordinately frequent "inspections" of the facility by the State Licensing personnel, as if it had been targeted for functional and operational demolition to serve some other set of purposes: six "inspection" visits within five days while the personnel were also caring for the residents. In one particular 24 hour period reported to me, there were three severely accusatory "inspections", one of them at 1:30 AM. Big home, smaller home, group-home, home is a place where people sleep at night. "Residents" are people who are in good enough health to be counted on not to need someone awake at all hours in the event of emergency, this regardless of any quixotic, utopian ideal dreamed up by Licensing. B & C homes never were intended to be emergency hospitals, let alone acute care hospital wards.

The act of requiring a homeowner to get-rid-of his watch dogs when the neighborhood does not have an entirely innocuous reputation seems the height of poor judgment and total lack of understanding of the value of watchdogs to warn the operator of any of the variety of events that a home owner can be alerted to by their barking. In all instances I am aware of, where there was some resident with a tendency to wander, the operator was a light sleeper who slept with one eye and one ear open. Any one who has read THE ACTIVITY OF LISTENING or has raised a child is clear how this works. It is not necessary in B & C homes to have someone awake at all times just because one of the residents might wet the bed. These accusatory inspections, appeared to have been intent on one sole function, that of demoralizing the personnel at the facility, of finding fault, any fault in order to issue another citation, levy a fine, bring the place of business to its knees, force its closure.

In my medical-psychiatric opinion, the severe mental stress and even distress inflicted by Licensing onto the personnel there could be expected to have placed an extra burden on both the owners and the personnel administering the plant and the care of the residents. This place was never "squeaky clean", I was pleased to note. It was a place in which the residents could feel comfortable living, without excessive demands being placed on them for conformance to someone else's standards in regard to their behavior or their prior living habits. In regard to another charge leveled, that inadequate staff were on hand to care for the residents I quote one clear headed lady, formerly living there: "I don't know what they (inspectors) mean. There were four nurses (staff) there all the time." She was a former technician at Napa State Hospital and usually knows quite well what she is talking about.

The excessive, in my medical judgment even unreasonable, hazardous to the health of residents, demands of Licensing placed on several of the facilities where I have patients cannot but have a deleterious effect on the residents-patients living in these homes and convalescent hospitals. These, at any hour, inspections with the mandatory diversion of time commitment from supervising and directing staff to these invaders are also going to have the effect of severely preoccupying, especially of upper level staff. These actions, as they

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are now being carried out, are not very little different from other terrorist actions. "Inspection?" - - At 5:30 AM on a Sunday morning?? By persons wearing prominent law enforcement badges? Into health providing facilities? To this point no one has been shot, but, nevertheless, people are dying from these actions.

It is unavoidable that this relatively new cadre of internal security police of the State are going to detract from the care and time available for upper level staff to program for the improved care of their charges. Front line care of the resident-patient cannot help but suffer. When dad has just gotten a scalding scolding from the boss he doesn't have as much attention ready for the family at home. Hours and hours of precious staff direction and training and patient care time being taken up to cow-tow to the whims and caprices of power happy bureaucrats whose efforts and actions are effectively aimed at forcing mistakes, oversights in the care of the residents in these homes and nursing homes. "Patient identification wrist bands look faint to me." Resident fingernail care needs more attention. Diet cards in kitchen don't exactly match charted orders, sometimes are found to be behind by 12 hours in one of those surprise raids. Licensing personnel have characteristically been demanding, imperious, harsh and rigid. Almost invariably the highhanded, unrelentingly punitive approach taken by these personnel has been equated to "Gestapo" and "like the Gulag Archipelago." To the extent they are able to carry it off, they apparently believe the best way to gain submission to their demands is to be forceful, unrelenting, harsh, punitive, intimidating and demanding in their dealings with the homeowners placed on their hit lists, levying fines on what at best are marginally profitable enterprises that try to form the bulwark against homelessness, that are the bridge between being hospitalized (or locked up) and being homeless.

On more than one occasion I have heard CCL personnel making degrading remarks in public about homes and convalescent hospitals that fall under their jurisdiction.

A few years ago a psychiatric case resident died in a B & C home. He had been receiving good home care, staff following medical instructions. Within eight hours of his death, the social workers of Licensing were accusing staff of having caused residents death, implying that charges of manslaughter could be expected against them. This would be pretty frightening to anyone. In fact it was found that resident had ingested an over quantity of one of his medications. The first family words to the doctor after family learned of his death were "Did he over dose?" implying that there was a history of that problem that had been concealed from medical and residential care personnel. You see, many psychiatric patients become quite skilled at faking the taking of their tablets, concealing them in their mouth to later throw them away or stash them. No matter how skilled personnel become at checking to see that a patient-client has taken his tablets, don't forget that the patient who does want to conceal that he hasn't taken his meds has had far more personal experience at hiding his medicine in his own mouth than any other person can ever have at checking out his particular mouth. In this particular case instead of the matter stopping there, however, apparently this grieving and later feeling aggrieved family were encouraged, probably in no small way by the actions of public agents, to sue that B & C home. Such events cannot help but detract from the time and attention otherwise available for care of the still living resident-patients in that home.

MEDICAL AWARENESS AND CONVERSATIONS WITH LICENSING

A group of physicians that I meet with on a regular basis have of recent become quite concerned, even distressed with the medical consequences to our patients resultant from the actions of Licensing against homes that in our judgment are of good quality. We have been wondering about what is beginning to look like a systematic attack by Licensing against numbers of these homes. Licensing's actions are ALWAYS AGAINST. Stricter legislation and/or more Licensing regulations leading to more fines and more stringent punitive measures is no answer to the care of these refuges from homelessness; is no answer at all to any of the alleged shortcoming of the vast majority of dedicated personnel and homeowners providing REAL homes, service and care to the elderly, infirm and mentally ill. In my medical opinion, Board and Care Homes AND their residents were medically far and away better off before the advent of the Community Care Licensing State Police. The medical consequences of their unhealthful actions have resulted in premature deaths of so many innocent elderly. The excessive numbers of moves have been causative of repeated episodes of grave deterioration in mental illness cases.

At a recent meeting of this same group of physicians, we had a representative in from Licensing. To the observation that Licensing holds and conducts its own hearings, to determine its own regulations and rules, notifies and invites as witnesses those of its own selection, sets its own times AND postponements for these hearings, he merely smilingly acknowledged and changed the subject. When it was pointed out to him that characteristically, Licensing does not ever inform those whom it is citing what their recourses, alternatives or options are, ie, Licensing never gives the equivalent of a "Miranda", he responded that this would be a reasonable thing for them to do and that he would so inform his superiors of this (particular) concern of ours. Nothing back so far. In fact there has been no response to our follow-up correspondence to him for over four months. The view of this group of physicians is that Community Care Licensing has become quite clearly more interested in its own regulations and their enforcement, in their own codes, in their own box-scores, than in the care of patients or the results of their actions against the places these otherwise homeless do call home.

As I listened to that representative from Licensing early this year, he was quite explicit that Licensing has no intention of "lightening up", ie of seeing that patient care comes first and rules are for the benefit of patient and patient care. With their Administrative Code, they are relieved of any need to let compassion for patients and patient care considerations enter the scene. Apparently as long as they can wrap themselves in their own cloak of righteousness for their REGULATIONS' sake then they need have no concern for the effects on the lives of those UNDER THEIR JURISDICTION with whom they are so drastically intervening with their life threatening actions. Typical bureaucrateze reason for doing something - - "I have to abide by Title 22 of the Administrative Code. I DON'T HAVE ANY CHOICE."

COMMUNITY CARE LICENSING HAS VERY LITTLE CONCERN WITH THE INTENT OF THE LEGISLATIVE ACT THAT BROUGHT THEM INTO BEING. IT IS ALMOST TOTALLY CONCERNED WITH THE LETTER OF ITS OWN REGULATIONS.

So what's new! The "Iron Law of Bureaucracy" first enunciated about a century ago, is that the primary purpose of any bureaucracy is the preservation and protective enlargement of itself. We can see evidence of that at every turn in our lives whether it is the local Redevelopment Agency or "The Invisible Bureaucracy" as it protects the expansion of the EVIL EMPIRE.

CARE HOMES

Although some of the caretakers do not have a college degree facility with the English language, all of those I have had experience with, have had no trouble comprehending, either my instructions, requests from them for information, nor any trouble comprehending my written instructions. Their care of my patients has been of first rate quality. They have been able to reassure their clients including my patients after the frequent and troublesome visits of Licensing. They have been in the vast majority, authentically caring people whose caring showed up in the way that the patients-clients thrived there. Almost as an after thought, it was additionally alleged that the woman whose death was one of the allegations, had a decubitus on one of her buttocks. If true, this would have had to be because of the severity and frequency of the "inspections" sucking up so much emotional and mental energy AND TIME that in the acts of attempting to service the myriad of Licensing

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orders and demands there might have been a temporary overpowering preoccupation of one of the staff otherwise so attentive to resident care. I had previously seen them handle many other cases of infirm people without problem. I can only add that were my own health and care or my mother's dependent on either the intentions and actions of the B & C owners and personnel OR Licensing, I would unhesitatingly choose any one of the B & C Homes they have so maligned.

To the damaging, condemnatory, denigrating allegations brought out in the Little Hoover Commission report (titled "Community Residential Care in California -- Community Care as a Long Term Service", dated December 1983) this group of physicians that I belong to can only say: "We wonder where they looked. We are aware of some of the personnel who signed that report. We also note the total absence of any MD participating in the Study who in fact had first hand, on-the-spot dealings with real B & C homes." Any Blue Ribbon Committee of the legislature that passed or passes legislation based on this report, has done so based on disinformation, information that my group has been completely unable to substantiate in any way. We among ourselves cover well over 100 homes. Were there some significant percentage of truth to the allegations in that report, we would have expected to have seen some of those "rampant, dire conditions" which they reported. In addition, one of our members recently got in touch with both the health and the fire department authorities in both San Francisco and San Jose. Neither of these community's officials had anything at all adverse to say about B & C Homes in their areas. In fact, their comments about the Board and Care facilities they had personally viewed tended from good to glowing.

REAL ESTATE VALUATIONS

As an aside and not central to this letter is the fact that a few select owners and personnel seem to have inside information, have access to the inside track with some County and State agents, know months ahead which homes are slated for Licensing's destruction derbies. Certain individuals know well in advance which places are due to have real estate values suddenly cut in half or more by these convulsion producing actions of Licensing. So they get ready to step in and make their real estate killings when the places are finally knocked off by the legaleze rationalizations and raids on the lives of my patients, when the homes are emptied out. I can't help but be impressed by how a select few seem to be almost effortlessly accumulating choice pieces of real estate after the severe market devaluations caused by the actions of Licensing. This select few then almost as effortlessly seem to get some of the homes re-licensed, reopened and then get them "restocked with a new supply of referrals" from the Continuing Care Divisions of the local County Mental Health Services. When these actions have been completed, presto the home is again back up to full market value and the select one has added a bundle to his net worth. I have watched certain other owners, apparently targeted for destruction, get strung out in endless, vain and usually useless efforts to get that elusive piece of paper, the operating License from CCL; complying with every request and order issued, their resources and personal lives stretched almost beyond endurance because of the endless delaying "reasons" given that were unwarranted from medical health, medical safety, medical welfare point of view of the residents living there.

I can only deduce that there are other motives than those appearing on the surface to account for the selective implementation of the full fury and vindictiveness of the State Licensing Regulations. I have been impressed with the regularity some personnel have a secret smile as they talk of specific B & C Homes that later have become the targets of these overwhelmingly destructive actions.

BUREAUCRACY

The bureaucracies involved in these matters along with their agents, with all the power supplied by men carrying guns can exert on any one, forcibly removed people from their homes, just like any other terrorist group. In the cases of people I know personally, they were not told what their rights were, received no "Miranda" equivalent, let alone a chance to talk to their family, conservator or doctor, let alone any lawyer one of them might have remem-

bered. You might say they were totally stripped of their citizenship rights, to then be herded like sheep to where? They knew not. The slaughter? Licensing would seem to operate with a total immunity from the Law, with total lack of feeling for any of the consequences to the health and welfare of any of these older people. AND the health consequences to these people are of major life shortening and illness precipitating significance. Every time I read about Licensing closing another home or facility, I shudder to think of the thousands of life days that are being arbitrarily amputated because of the essentially unilateral actions of what some have already termed the "zealots" of Licensing. It does not take too much stretch of the imagination to compare these actions with what the newspapers love to call "Atrocities" when that happens to some group that the Invisible Bureaucracy is protecting.

Before and then directly following the 9-12-85 Licensing action it was almost as if the members of the "Invisible Bureaucracy" were making it as difficult as possible for the attending physician to gain access to the location of (his) patients. It was as if the "choke point" strategy were being applied to the information about where these people had been relocated to, these who counted on continuity in their professional relationship.

I am clearly reminded of another series of events which unfolded here in Solano County Mental Health Services earlier this year and is referenced in a letter to Director of Solano County Mental Health Services dated 7-12-85. In that instance County MHS social workers first obscured and obstructed information about whereabouts of a recently discharged-from-hospital patient. They transferred him incommunicado to another residence unknown even to his mother with whom he had previously been living. They then, additionally, unilaterally decided to terminate the 12 year continuity of professional relationship of this severely and chronically ill patient with his physician solely on the basis of bureaucratic rationalizations, unrelated to any medical opinion to the contrary or consideration of the patient's mother's or patient's own preferences in his care and treatment.

Talking to professional colleagues in this same field, my own experiences as reported here are not dissimilar to theirs. It is still hard for me to accept that the actions referenced here are typical of what may be coming to be accepted as the way to treat and care for the older, infirm and otherwise homeless people in this State. I do not want to believe this is the general direction that California Bureaucracies and Legislation are headed. Sometimes it is hard to hold onto a belief when events keep showing the belief to be contrary to what's happening at so many turns in ones life. Of course, I can accept that each of these "kidnappers", as bureaucrats, do not think that continuity of relationship is important, be it professional, or even perhaps personal. We all are familiar with how the State controlled Community Mental Health Services has SUBORDINATED CONTINUITY OF RELATIONSHIP to what they call "continuity of service."

Yet since the beginning of written medical history, it has been the individual relationship that has counted. Regardless of how hard the envy promoting liberal tries to alter it, the fact remains that life spirit, elan, healthfulness arise principally from within the person and from his continuity of relationships. The best that we on the outside of another can do to promote health in another, even above antibiotics and psychotropic medications is to not remove a person from that which gives his life meaning, -- friends, possessions, familiar surroundings. This is especially true in the older person.

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RESIDENTS' PERSPECTIVE:

THE CONCLUSION TO BE DRAWN IS THAT IT WOULD NOT BE GOOD SENSE FOR ANYONE SO DIRECTLY CONFRONTED BY SUCH A MASSIVE DISPLAY OF GUN-CARRYING FORCE TO DO OTHER THAN BE AGREEABLE WITH THE VICTORS OF THE BATTLE THEY GOT CAUGHT IN AND THEN DO THEIR BEST TO INGRATIATE THEMSELVES TO THE MANAGERS OF THE PRISONER-OF-WAR CAMPS THAT THEY FIND THEMSELVES ASSIGNED TO. YOU ARE NOT GOING TO PROTEST ABOUT YOUR RIGHTS THEN. IF LATER THEY FIND THAT THEY CAN MAKE A NEW DECENT LIFE FOR THEMSELVES AT THE NEW FACILITY THEN THE MOST THEY HAVE LOST IS THE MEANING OF THEIR LIVES, THEIR FRIENDS, THEIR FAMILIAR SURROUNDINGS THAT UP TO THE RAID FURNISHED THEM WITH THE MAJOR MEANING OF LIFE IN THOSE CASES WHERE FAMILY OR EXTERNAL FRIEND MADE THAT RARE OR NEVER VISIT.

IN SUMMARY, THE STATE LICENSING WAY OF HANDLING MY PATIENTS HAS BEEN SEVERELY HAZARDOUS TO BOTH THEIR PHYSICAL AND THEIR MENTAL HEALTH, HAS BEEN ENDANGERING THEIR HEALTH, SAFETY AND THEIR WELFARE AND IN SOME INSTANCES BEEN IN DIRECT DISREGARD OF MEDICAL ORDERS. THIS STATE AGENCY HAS BY ALL APPEARANCES TO A NON-LEGALIST, VIOLATED CALIFORNIA LEGAL CODE AND/OR THE CONSTITUTIONAL RIGHTS OF THOSE IT HAS BEEN INVOLVED IN MOVING AROUND.

In summary, the State Licensing way of handling my patients has been severely hazardous to both their physical and their mental health, has been endangering their health, safety and their welfare and in some instances been in direct disregard of medical orders. This State Agency has by all appearances to a non-legalist, violated California Legal Code and/or the constitutional rights of those it has been involved in moving around. It has caused to them to be moved regardless of their preferences, treated them in the manner of criminals or livestock. As a non-lawyer, I would wonder if their actions could not be liable to a tort action if not being felonious in nature. Isn't it still against the law to gather up the competent person of another and without his permission, even against his objections, transport him and deposit him someplace else, in most cases even incommunicado? Or maybe State Licensing Regulations supervene the ordinary safeguards afforded by the law and due process. OR maybe these laws don't apply to older people, some of whom can be accused of getting confused when overwhelmed by overwhelming circumstances.

We read in September '85 issue of "California Update" about Licensing revoking the licenses of 32 homes, and can only shrink in horror from contemplating the number of atrocities committed against the residents by these actions. Lives shortened to satisfy what? Some bureaucracy's, ivory towered, personally prejudiced view of how things are supposed to be, to satisfy their own self made rulings? The number of lives so shortened by these actions far outpaces anything the white South Africans have even been accused of doing there.

Your grandmother dies in your home and you could lose your home. Your full-pressured, operational fire extinguisher is shortly due or recently overdue to be recertified. Penalty: It seems Licensing is willing to torch your investment and without a second thought, risk the lives of those living there.

CALIFORNIA COMMUNITY CARE LICENSING TODAY:

Up to this point in our lives California Community Care Licensing has had no motivation to do other than treat the operators and personnel of Board and Care Homes and Convalescent Hospitals like they were running centers of cocaine dealerships or had become places where people took drugs and therefore had to submit to urine tests for drugs

2 to 4 times a day. As a bureaucracy, their only incentive has been the attempt to catch somebody "doing something wrong" according to their rules, interminable surprise "inspections", incessant demands to see more and more records to see if they can trip up the staff of a health facility and then every once in a while, celebrate like Christmas when a job has finally been finished off, or like New Year's Eve when they finally get to issue one of their brand new "AA Citations." Their only ACTIONS ARE AGAINST PRIVATE ENTERPRISES IN THE BUSINESS OF SHELTERING OF HOMELESS AND NON-ACUTE MEDICALLY INFIRM.

From all indications they, CCCL have absolute powers over a rather wide range of various county departments and the personnel in them. They can order out the sheriff's deputies. They need obtain no warrants, have no need to observe medical conditions of those involved, are immune from "probable cause" reasoning, need not be concerned with property rights of those being disappeared by them. Carrying off the protesting competent person can be done with immunity. The contracts of a person for room and board with another legal entity at a specific residence are in fact no longer valid when CCCL unilaterally decides they are not. Licensing gives every indication of having AWESOME COERCIVE LEVERAGE over those it is associated with, let alone those who fall under its jurisdiction.

As sold to the Legislature a few years back, wasn't the intent of this Agency generally to promote conditions for the better care of those in B & C homes, in the community based psychiatric locked facility and in the convalescent hospital? This intent seems to have gotten lost in their worship of their own rules and rule making abilities. Now they would seem more intent in establishing and verifying to the media how absolutely essential these absolute police powers of theirs are

FOR THE ABSOLUTE GOOD OF THE STATE

The only praiseworthy event for any of the personnel in this police program would seem to come from the number of BLEMISHES they can find or can allege to have found at the places, toward the goal of an ultimate smashing success at proving it. Proving what? Their invincibility and immunity from consequences? The points for promotion of personnel within that agency would seem to come from the numbers of places they can prove should be run out of business because the homes and health facilities do not measure up to a combination of their "objective regulations" and their own individual subjective views of what a "good place is supposed to look like." These are the acts of tyrants.

PROPOSAL FOR A SOLUTION

It is proposed here that we turn to advantage their energies, not try to blunt them. I suggest that we harness the zeal and crusader zest in these personnel.

It is a fact that repetitive moving for the sake of moving is defeating to life and to health for the old and the mentally ill. It is clear that stabilizing the environment is far more health promoting to these clients than bathroom color or curtain replacement or recency of fire extinguisher certification. Any home should be viewed as an Eco-System. This should be especially true for the B & C home of the mentally ill, the elderly, infirm or homeless. Wasn't that one of the elements of the "Friends Can Be Good Medicine" campaign being pushed by the Department of Mental Health a few years back?

A more reasonable program for CCCL to be involved in, would be that of FOSTERING good CONTINUING RELATIONSHIPS within the facilities themselves as well as within the community of these community based care facilities. Minimal attention to some form of standards of care by Licensing would probably be unavoidably required by the media as the ultimate authority. Actually, as I am sure you appreciate, it is definitely to the advantage of the owner-operator to do what he can to keep his clients healthy and have them want to stay with him. Breaking in a new resident, getting to know him and his idiosyncrasies is time consuming and costly of staff time.

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In order to be truly effective for the residents, any Licensing program and its personnel should more properly be tied in with the better operational functioning of the facilities. I believe that the job descriptions of Licensing workers should be rewritten so they then become "Facilitators" for the facilities instead of just knit picking and home demolishing "Evaluators." A portion of their performance ratings and promotional opportunities should be tied in with how well the homes over which they have jurisdiction are functioning, how well these places are enhancing and fostering the health of the residents. They should get on-the-job ratings from those they still supervise. This is quite well received in other places, both public and private. Don't some institutions of learning get the students to rate the teachers? Certainly in places offering Continuing Medical Education courses, they ask for feedback from those instructed after a teacher completes a class or a course. The Army's studies on combat unit morale, more than amply demonstrated the value of feed back and continuity of relationship, didn't they?

The feedback to these Licensing agents could be objectified. The more stable the population at a place the better the mark. Facilities running near or at capacity offer both more profit and more incentive to the owners. Repairs in these marginally profitable places can then be better planned, upkeep maintenance can be programmed and scheduled more reliably. Owner and staff then can program into the home those features and attractions that attract the restless resident into staying.

To be objective in measuring Licensing personnel performance it is best to get a numerical value that is verifiable. Toward that purpose I recommend something similar to the following:

EACH HOME SUBMITS a monthly (or quarterly) score-report on its Licensing Facilitator that contains values for:

- 1) Stability in location of homeowner-operator-administrator-whatever.
- 2) Continuity of relationship, stability of resident population.
- 3) Number of by-appointment, facilitating hours by Licensing to home.

HYPOTHETICAL EXAMPLE:

In Lena's B & C Home, Lois is the assigned License Facilitator. Lena has run her home steadily for the past 28 months. She has 5 residents and room for a sixth. She is at 5/6ths of her optimal capacity.

Residents are:

- 1) Al came 40 months ago. This was before Lena bought the place. 5 months after Al arrived he had a heart attack and was hospitalized for four weeks then returned home there. This makes Al's CONTINUOUS TENURE there now 40 months minus 5 months and four weeks or 34 months.
- 2) Josie came there 8 months ago and continues.
- 3) Cookie arrived 52 months ago, broke her hip 44 months ago and came back home a month later. Cookie's CONTINUOUS TENURE is 43 months.
- 4) Art came 19 months ago, had outpatient surgery 16 months ago, likes it here. Art's CONTINUOUS TENURE is now 19 months.
- 5) Gladys arrived 7 weeks ago on referral of her daughter. Her CONTINUOUS TENURE is now 2 months.
- 6) This bed is now empty, awaiting a referral.

Lois, the assigned License Facilitator, came by appointment three times this last month, on the 8th for well over a half hour, on the 16th for over an hour and again on the 23rd when she was busy with Lena, staff, looking around, talking to some of the residents and on the phone -- for two hours, when she had to leave for another appointment. Lois was in that home for a total of four hours the month just ended.

On the last visit of the month Lois assured Lena all was in order in the home, reminded her to be sure to take care of the extinguishers. The next time Lois called, Lena told her the new patient had arrived a day early, but it worked out well and her reputation with the fire marshal had been saved. AND that the next time Lois was there Lena could give her the previous month's box score for Lois's records (this portion of Lois's performance report for the rating period). This was a part of the contract between them.

With the above numerical information we can devise a score:

Lena in the same place for 28 months 28

Al's continuous tenure 34 months 34
 Josie has been there 8 months 8
 Cookie back home since her hip 43 months 43
 Art's been around steady 19 months 19
 Gladys came 2 months ago 2
 Sixth bed is now empty. 0

For a total combined resident
 continuity of relationship of 106 months 106

Resident population continuity-of-relationship stability
 Divided by 6 (the six bed capacity)
 equals $17 \frac{2}{3}$ or better. $106/6 =$ 17.67

Lois was in house there for four hours 4

LOIS'S LICENSING FACILITATOR SCORE FROM LENA'S HOME WAS THEN 50
 for the month just completed.

Notes and Comments:

1. The longer a B & C operator is in a location, the more experience, skills and ability she has accumulated in getting the place running efficiently and well for both her own benefit and the benefit of the residents living there. The better she has become at caring for her charges, getting them to appointments, servicing their needs and wants, summoning or securing assistance, like for emergencies.
2. The longer residents are around each other, regardless of how the outsider may view their methods of relating, the more healthful their stroking becomes to each other. Another way of saying it, the more they feel like family to each other (INCLUDING expressed annoyances, animosities, antagonisms, affections and all), the better the net health benefit that comes from the continuity of relationship in the largest majority of instances.
3. The "tenure" of any client's attendance starts over when he has an absence of more than a six consecutive nights, whatever the reason for absence. This has to do with

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the biological-medical significance of that critical time interval in terms of how individuals experience their continuity-discontinuity of relationships to each other. The "six day" stopwatch-clock is one of those clocks we each carry with us in our heads, in our relationships.

4. The titles of the Licensing personnel should be changed from Evaluator, to another term, here proposed as Facilitator in order to reflect the change in orientation of the duties of that agency's personnel. "Evaluator" now means an-immune-from-the-consequences type policeman.
5. In this hypothetical example, while Lois was at the place, variously she and Lena went over the in-house programs and activities, devised some new and revised others. Lois knew where Lena could get a good second hand stove that was far more fuel efficient, found out from Lena how much Lena had been able to save by putting neon lighting, swapped a couple of recipes with her, etc. Lois noticed a couple of toilets that wasted water and told Lena how she had fixed her own at home. During one of her visits she noticed the fire extinguishers needed to get recertified in another week or two and told Lena about it and that the fire marshal was getting pretty tough about those these days. Lois heard in passing that 79 year old Mildred had complained of two recent faint spells and looked kind of pale a few days back. Listening then a little more she heard Mildred had been a bit extra "tired", lost some of her appetite and told of a little "indigestion." To these (potential symptoms of a heart attack) Lois suggested to Lena it might be good to call "the physical doctor" for an appointment for Mildred today or tomorrow to check Mildred out. On one of these visits Lena asked if Lois knew of anybody who could be referred to use her one open bed. Lois got on the phone to local Mental Health Continuing Care Services and talked to an old friend and found, yes there was a client who needed a bed in three or four days.
- 6) This form of program would also discourage the current practices of numbers of (maybe unknowingly mischief bent?) social workers as they encourage mental illness residents -patients into Childlike rebellious based demands to move. Particularly to the unstable psychiatric patient, the other side of the hill always looks greener, especially as it is sold by the recruiter to the new placement. These moves to so-called more independent, less restrictive settings are usually encouraged under the rubric of "You have your legal rights", to change home location. Quite often these are made in the face of medical recommendations that a move is currently not in patient's best interest, will lead to another episode of grave deterioration in the person's illness. Each regression and re-hospitalization only leads to further, extended continuation of the person's dependency and inability to extricate himself from that dependent position in life. On the other hand, we are all aware that jobs of thousands are dependent on the numbers of the socially dependent not becoming less so.

While this "Solution proposal" scenario might on first reading seem fanciful, far-fetched, even unrealistic, I do not think it is too far out of line when the population at large and the popular politicians of the State, get to hear it. Especially when they hear what it is intended to replace and what is now being carried out against the operators of our B & C homes to the severe detriment of the less able of our society.

THE LONGER
RESIDENTS ARE
AROUND EACH
OTHER, REGARDLESS
OF HOW THE
OUTSIDER MAY
VIEW THEIR
METHODS OF
RELATING, THE MORE
HEALTHFUL THEIR
STROKING BECOMES
TO EACH OTHER.
ANOTHER WAY OF
SAYING IT, THE
MORE THEY FEEL LIKE
FAMILY TO EACH
OTHER (INCLUDING
EXPRESSED
ANNOYANCES,
ANIMOSITIES,
ANTAGONISMS,
AFFECTIONS AND
ALL), THE BETTER THE
NET HEALTH BENEFIT
THAT COMES FROM
THE CONTINUITY OF
RELATIONSHIP IN THE
LARGEST MAJORITY
OF INSTANCES.

Those individuals in Licensing whom I have talked to or argued with, on the whole appear to be decent individuals. In my experience, however, their minds have been quite closed in any discussion of the effects of their actions on those they are moving around. They appear to either be grossly uninformed or misinformed about the observable medical health results of what they are doing to those who fall under those who fall under their jurisdiction, ie the resident.

Most people including Licensing personnel, I believe, would prefer get-on-with style encounters with another, given any decent chance for one. Those members of Licensing I have personally met have sounded like they could be pleasant to know except for having the job of, from their point of view, being in the position of a tax collector or field investigator for IRS, thus putting on their super hard exterior. Probably from the point of view of most all of their personnel, the first order of business has been and is: Do what it takes to keep your job. The things they have been causing to residents of these facilities, however, have been even worse than they have even imagined. Their activities, as presently constituted, are literally extremely serious health hazards to those I see and care for, causative of illness and even leading to deaths.

CONCLUSIONS:

- 1) The cost in human lives, in the shortening of lives and aggravation of illnesses has been greater since the legislature created what is now Community Care Licensing than before its advent on the scene in California. Fines and other additional punitive measures against the homes and convalescent hospitals for these residents is surely guaranteed to increase the suffering of those in need of a place they can call home.
- 2) Community Care Licensing precipitated health care costs to the State have far outweighed any benefits. The annual hospital bill probably runs into the 10s of millions of dollars annually and may be above that, if my own single professional experience is any indicator and Licensing's actions continue at the present level. I am personally unable to see any net benefits to the citizenry of the state, to the man on the street, to the elderly, or to the taxpayer from this bureaucracy which seems to be immune from the law.
 - A) There is no net benefit to the elderly, homeless, infirm or mentally ill. Instead, they are being subject to conditions with severe health liability consequences.
 - B) There is no net benefit to the private homeowner, business operator. Instead, he is subject to ruinous, capricious actions of a nature that is severely disruptive to the care and ministering to the needs of the resident, unwarranted expenses and mental distress caused by the agency's current methods of carrying on.
 - C) There is no net benefit to the taxpayer. Instead, there is a new multi-million dollar added annual expense of an agency that would seem to have almost carte blanche immunity to invade certain private homes without search warrant, without probable cause; of an agency whose actions result in added millions of dollars of annual medical expenses to the poor, infirm, mentally ill and otherwise homeless.
 - D) There is no net benefit to the person on the street. Instead, there is a new category of plain clothed policeman on the street.
 - E) There is no net benefit to the homeless. Instead, there is a steady ongoing progressive loss of beds that the otherwise homeless could call home.
- 3) The inherent energies of the personnel in Community Care Licensing could be instead turned into more socially constructive channels. This will probably necessitate some legislative redirection.
- 4) This data would be much more readily and comprehensively understandable in terms of The Games People Play, except for the fact that were it written in that manner it could get sloughed off. You probably have a copy of the book "GAMES PEOPLE PLAY" by E Berne on your bookshelf right now. Community Care Licensing and it's operations can, however, be understood more succinctly if one keeps these games in mind with their gimmicks, dramatic "switches" and quite emotionally intense "payoffs".

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To name only some of the games being played by agency personnel: "BLEMISH", second and third degree; "NIGYSOB" (Now-I-Gotcha-You-SOB), second and third degree; "IOTHY" (I'm, We're-Only-Trying-To-Help-You), second and third degree; "Look-How-Hard-We're-Trying", second degree; "See-What-You-Made-Us-Do", second and third degree; some "Sweetheart"; "Why-Didn't-You"- "No-But", second and third degree; "Ain't-It-Awful", second and third degree; "Corner", third degree; some "Harried"; "If-It-Weren't-For-You", second degree; "Let's-You-And-Him(Them)-Fight", third degree; some "Mental-Health"; "There's-Nothing-I-Can-Do-About-It", second and third degree; "Wooden-Leg", second degree; "TAGAWI" (Try-And-Get-Away-With-It), second and third degree. As you can see I have listed the "degree" of intensity of these games played by agency personnel. Third degree, as that volume tells, is rather intense, ie tissue damage often resulting.

With few exceptions, the games played by Licensing that I have had the chance to witness or hear about, have come out with either GET-RID-OF pay-offs for their agency or have come out with GET-NOWHERE-WITH endings until later they were able eventually to GET-RID-OF the homeowner they had initially targeted to squash. This is not too much different from how the Invisible Bureaucracy operates as it spreads the cancer of The Evil Empire. The difference from other situations, such as when these home-owning people are allowed to privately govern their own affairs is that now there are NO GET-ON-WITH events between Licensing and homeowner. Only the outcomes of events backed by the police powers of the State occur: GET-NOWHERE-WITH and GET-RID-OF.

- 5) At every level and in every facility I have contact with, and where Licensing has jurisdiction, it is almost universally felt as loathsome, as interfering, as hampering to delivery of health services. This includes the Patient Councils themselves at some of the larger enterprises.
- 6) The Licensing practice of sanctifying each and every complaint registered to or sniffed out by them is unhealthy for the mental health of the community. It encourages demanding and dependent behavior. It encourages the proliferation of the expression of psychological rackets, of the activities of the psychological racketeer with his demands based on his personal vocal, publicized "outrages."

A psychological racket in the expression of a specialized show of feeling that places a burden on the other person, is aimed at securing acquiescence to his personal demands. Psychological rackets are perhaps best exemplified in the temper tantrums of two year old children in the grocery store when their demands are frustrated. "You don't let me have what I want, I'll be mad at you (and the whole world will see what a meany you are)."

Sanctifying the demanding complaints of the dependent and the marginally aggrieved clearly works in opposition to the Golden Rule. It promotes violations of both the 9th and 10th Commandment, ie "Thou shalt not bear false witness" and "Thou shalt not covet .." These actions are disruptive to the efforts of people to get-on-with each other and privately work out differences.

- 7) Every move of these residents is accompanied by delays and mix-ups of their mail, delays of their checks, delays in their ability to pay their bills and take care of other obligations. Medical and social records can get misplaced. Personal information and possessions get lost. Every move to a new pharmacy can involve delays, misunderstandings. The ever present human potential for errors in care and medication dispensing is magnified and compounded by the transfers to new hands. Residents lose their funds. Personal understandings, staff with resident are broken.
- 8) If this agency is in the "Public Interest" I have yet to meet the members of the community who are receiving net benefit from it. If "Public Policy" is being served, then only the bureaucracy has the authority. It is the members of the community who must bear the responsibility and consequences of its actions, pay for its continuance.

RECOMMENDATIONS:

- 1) Licensing must be redirected or abolished at the first available opportunity as being a severe health and safety hazard to the elderly, infirm, mentally ill and homeless.
- 2) Privatize the standards and any supervision for Board and Care Homes through a non-governmental organization that regulates itself. In Britain the Securities Industry regulates itself. What's so different here in this instance? Governmental powers always breed special interests backed by the coercive powers of State. Privately, people are far more likely to work out solutions that are truly equitable than when coercive powers are available to call on.
- 3) Listed in the text here is only one REMEDIAL PROPOSAL of several approaches whereby Licensing can be tamed and civilized without breaking the spirit of the personnel in it. If it stays on the scene it should be redirected to become a contributing constructive attribute of Society.
- 4) Encourage Independent Living facilities. DO NOT CLOSE these down. Closing these will only lead to a vast increase in the numbers of homeless. Despite what you may read or hear, these are far and away safer for the resident. True, some of them may have an occasional four legged rodent, but from personal experience it can be unequivocally asserted that the freedom from potential terror far and away increases the total healthfulness available to the resident now living in these, regardless of what any "TV Guided Tour of the Evening NEWS" may assert.
- 5) We urgently need the help of your office in whatever way you can give it to slow down the medically unwarranted numbers and rate at which the elderly, mentally ill, infirm and other homeless are being forced to move.
- 6) Each B & C home must be treated as an "Eco-System", with life sustaining forces for all, contained in each member of the resident and staff population. Injury sustained by any one in that system is going to have an effect on the well being of the others.
- 7) If there is no other IMMEDIATE alternative, find ways to curb the unlimited, uncontrolled, arbitrary, self-determining police powers of State Community Care Licensing. If possible, harness their energies into a constructive channel.
- 8) If the Legislature is absolutely intent on preserving this new police Bureaucracy with its absolute home invasive powers, then it must legislate that the intent of any State Community Care Licensing Laws that are left on the books are for the purpose of the medical health, safety and welfare of the elderly, infirm, mentally ill, and homeless. As presently constituted and run, this Agency of the State is but another example of social BLIGHT BY PLANNING. Why not specify that the people supposedly being thus protected are more important than the preservation of the rules and the bureaucracy that administers these matters, if we are forced to have such a bureaucracy?
- 9) Invite some of us up to the legislature to testify, who know what's really happening when these laws get written and rewritten as they do.
- 10) Get Licensing to remove the unofficial blackball they have placed on Continuing Care Services of Napa County Mental Health Services placing patients in three good quality B & C homes for the mentally ill I attend in American Canyon, Southern Napa County. All present indications coming to my attention point to another Licensing orchestrated destruction derby against these in the not too distant future. It is my medical opinion that if such were to be carried out, inestimable damage would be done to the mental health of the residents there now.
- 11) All public and private conservators of persons should be made aware of the severe hazards to the health and life of their conservatees, which are posed by the constant threat of potential actions against the facilities that fall under the jurisdiction of California Department of Social Service, Division of Community Care Licensing, as it is presently constituted and directed.

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12) Require that Licensing obtain appointments beforehand, during business hours with the places they intend to "inspect." Not even IRS treats businesses as badly as Licensing. Licensing treats Convalescent Hospitals and Board and Care facilities like they were dealing with criminals, like crafty conniving members of the Mafia, like they were wholesale cocaine dealers, not health care providers. This TOTAL LACK OF RESPECT FOR THE LAW, FOR THE RIGHTS OF OTHERS for both the providers and the health of those being tended MUST BE STOPPED NOW.

Respectfully yours,
Franklin H. Ernst Jr., M.D.

CC:

Attorney General California
Governor and Commission on Residential Care
Napa County Board of Supervisors
Napa County Human Services System
Solano County Board of Supervisors
Solano County Welfare Dept
Solano County Mental Health Services
Sonoma County Board of Supervisors
Presiding Superior Court Judges
District Attorney Offices
Public Defender Offices
Grand Juries
Presiding Judge, US Federal District Court, San Francisco
AARP
Adam Smith Foundation
Battered Women's Organizations
Concerned Women for America
Easter Seals
Financial Success Report
Foundation for Economic Education
Heritage Foundation
Institute of Christian Economics
INVESTigate
League of California Cities
Mayor's of local cities
National League of Cities
Northern California Psychiatric Society
Reason Foundation
Remnant Review
Salvation Army
T Hannigan
B N Keene
Beverly Lahaye
Selected others

Letter to the California Psychiatric Association on 11-3-1985

11-3-85

From: F.H. Ernst Jr., M.D.
P.O. Box 3009
Vallejo, CA 94590

To: Kay Knepprath
California Psychiatric Association
926 J Street
Sacramento, CA 95814

Dear Kay,

Thank you for your letter of 10-25-85. I very much appreciated your comments regarding the monograph to Sebastiani titled "Life Shortening, Illness Aggravating Health Hazards from the Actions of California Community Care Licensing." Favorable letters like that are treasured.

As a follow-up: The latest terrorist raid by Licensing against the persons and homes of patients in my care occurred on 10-28-85: Twelve old and mentally ill people involved in three houses. In that one, Licensing recruited both guns AND dogs to enforce their orders. As with any terrorist organization they believe in the element of terrorizing surprise and in the use of overwhelming firepower. Maybe unconsciously they appreciate the extreme violence in their actions and expect an opposing response from those they are acting against.

Residents with room-and-board contracts have private rooms invaded, belongings rummaged through, "packed" within minutes in surprise gun-backed evictions, hustled off, "disappeared" from physician and family, objections and rights to call brushed aside, separated from each other, carried off to the next pre-selected stalls to feed and sleep. Due process, competent or not?

In this last instance the owner had apparently anticipated something coming because of, as reported, the dissimulations of the local fire marshal. Does the California Legislature continue intent on forcing the mentally ill, elderly and otherwise homeless into their own pre-conceived molds regardless of what really works for the health and care of the resident.

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"Mastery of the universe is proportional to the symbols man has by which to represent his universe."

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Licensing continues its accelerating pace of abusing and terrorizing the homes of Board and Care patients. Its unilateral, arbitrary acts are covered by: "We are following procedure" and its own self-written "regulations"; harassing and terrorizing homeowners and residents with endless surprise "inspections", three in a day, one at 1:30 AM, five in one week. Resident dies of natural causes. Homeowner is terrorized, branded "Murderer." Unregulated homes are far safer for residents.

Licensing actions have ostensibly plausible legalize words like "fire safety", homeowner compliance notwithstanding. Physician efforts to work with Licensing stonewalled.

As you recall, my monograph, starting at page 17 contained both conclusions AND proposals for alternative methods of approach. Any home care program not tied into promoting the medical health of residents is socially destructive. Operators now are treated like cocaine smugglers, not health and home providers, - worse than by IRS. Was this the intention of the enacting Liberal California Legislature?

Blitzkrieg, life-shortening, illness-promoting "code enforcement" raids of homes by a KGB-like agency of California, merely intent on filling quotas, must be stopped for the medical health and medical safety of the elderly, mentally ill and otherwise homeless residents, aside from any Constitutional guarantees.

Sincerely,
Franklin H Ernst Jr., M.D.
Telephone: (707) 643-6611

CC: Northern California Psychiatric Society
California Psychiatric Association