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September 1, 2016

Jean Iacino, Deputy Director
California Department of Public Health
Center for Health Care Quality
1615 Capitol Avenue, Suite 73.469
Sacramento, California 95814

RE: Closure & Relocation Plans for:

Eureka Rehabilitation & Wellness Center
Pacific Rehabilitation & Wellness Center
Seaview Rehabilitation & Wellness Center

Dear Ms. Iacino:

On August 24, 2016, Brad Gibson, a Governing Body representative for the three above-named skilled nursing facilities in Eureka, submitted notice to the California Department of Public Health (CDPH) that each of the three facilities planned to cease operations and voluntarily close. The notices to CDPH included three nearly identical proposed relocation plans that would govern the closure of 258 skilled nursing facility beds and the relocation of nearly that many residents. These closures would have catastrophic impact on persons needing nursing home care in Humboldt County if they are allowed to proceed.

On behalf of our offices and the residents of these facilities, we are filing a formal complaint pursuant to California Health & Safety Code §1327.1, alleging that the circumstances merit petitions for receivership by CDPH under §1327.

By separate letter, we have written Dana Forney, the District Manager for the Santa Rosa District Office, urging her to reject each of the three relocation plans. A copy of that letter is enclosed.

This is a highly unusual situation and one that could have traumatic consequences for hundreds of Eureka area nursing home residents. There are five freestanding skilled nursing facilities in the Eureka area with a total of 446 beds that for many years have served people throughout Humboldt County. If authorized by CDPH, the planned closing of the three nursing homes all at the same time would create a terrible crisis by reducing bed capacity by nearly 60 percent in a community that is already underserved due to an aging population and insufficient alternatives. We are deeply concerned about the probability of transfer trauma that would hurt or kill residents.

Pursuant to Health and Safety Code §1327, CDPH may petition the superior court for an order appointing a receiver to temporarily operate a long-term health care facility when management by the current licensee presents any of the following threats:

- Substantial probability or imminent danger of serious physical harm or death to patients;
- There exists a condition in substantial violation of governing requirements or pattern and practice of habitual violation of requirements; or
- The facility is closing and adequate arrangements for relocation of residents have not been made at least 30 days prior to the closing or termination.

Our complaint pursuant to §1327.1 contends that all of these factors may apply in this situation and seeks your action to invoke your authority to petition for receivership in order to spare many residents from grave harm and transfer trauma. Please consider the following factors and concerns in your investigation:

1. Hundreds of residents would likely be moved out of Humboldt County.

The only available local beds the relocation plans identify are a total of 44 beds at Granada Rehabilitation & Wellness in Eureka and Fortuna Rehabilitation & Wellness Center in the neighboring community of Fortuna. The plans give no indication where the remaining residents – about 200 persons – would go but the great likelihood is that most of them would be moved to facilities out of County and that some will be moved many hundreds of miles away. Separating these residents from their families, friends and community would have a huge negative impact on them and create a severe obstacle for family members and friends to stay in contact and visit with their loved ones.

Local residents who need nursing home care in the future will face a similar fate when seeking care. The closure of over half of the available nursing home beds in Humboldt County would force many local residents to leave the County to find care and cause serious disruptions in the local health system.

These nursing homes are not merely private enterprises that should be allowed to disappear at the decision of their owners, but are vital community resources that have long been supported by taxpayer-supported government funding. Their future in Eureka should be judged accordingly.

2. Former Wish-I-Ah residents would be exposed to a double-dose of transfer trauma.

These skilled nursing facilities are home to about 20 residents who were transferred from the Wish-I-Ah Skilled Nursing & Wellness Centre in Auberry in November 2014 after CDPH served the facility with a Temporary Suspension Order due to severe violations that resulted in death and harm to its residents. It is imperative that these residents be spared from further transfer trauma. They have already been forced to endure moves hundreds of miles from their home communities and to adjust to life in new surroundings, with new caregivers, new roommates, new health care providers, and new routines while having very little that is familiar to comfort them. They must not be subject to yet another forced relocation.

Furthermore, Wish-I-Ah Skilled Nursing & Wellness Centre was owned by Shlomo Rechnitz, who also has ownership interests in all of the five Eureka area freestanding skilled nursing facilities. Mr. Rechnitz and his associates should not be allowed to repeat the act of moving residents from a troubled facility they own in one community to troubled nursing homes they own in distant communities. There is nothing in the proposed closure and transfer plans that would guard against transferring residents to distant nursing homes as occurred during the Wish-I-Ah closure. Indeed,

due to the severe lack of local alternatives, about 200 residents could be facing such moves if CDPH allowed the proposed closures to proceed.

3. A “staffing crisis” does not justify closing these nursing homes but does merit intervention by CDPH.

Although the August 24, 2016 closure notices to CDPH do not state why the facilities are closing, it has been widely reported that the licensees have cited a severe staffing crisis to justify the closures. CDPH's investigation should carefully examine this claim, including the adequacy of staff wages and benefits to attract qualified staff, and help identify potential solutions.

We are unaware of any information about a local staffing crisis that would justify the planned closure of the three facilities. The greater Eureka area workforce has supported these nursing homes for decades. Even assuming there are significant workforce challenges for nursing homes in Eureka, there has been no showing of any kind that the workforce is suddenly only adequate to support 40 percent of the facilities that it has staffed for many years.

4. The monopoly nursing home ownership structure in Eureka does not serve residents' interests.

All five freestanding skilled nursing facilities in the Eureka area share common ownership and are part of Shlomo Rechnitz's ownership chain. To the best of our knowledge, no other metropolitan area of similar size has a monopoly where a single provider owns or operates all of the freestanding nursing homes in the area.

It is hard to imagine that the pending crisis could exist if there was local nursing home competition and consumers had choices of other operators. We know of no other comparable city in California where one operator is in position to eliminate over half of the nursing home beds through multiple closures as is being planned here.

The purpose of receivership would be to transition operation of the facilities to management by one or more new operators who would address the concerns we are raising and keep the facilities open. If competent operators are located, the community would be well served by both the prevention of the planned closures and the resulting competition and increased choices for consumers.

If it is true that the current licensees wish to close these nursing homes, we would expect that they would cooperate in transitioning them to new management.

5. There are serious quality of care violations that would justify receivership.

According to CDPH's Health Facilities Consumer Information System website, during the three prior years the three facilities slated for closure have collectively been subject to 182 deficiencies and 160 complaints. This is concerning performance, at best.

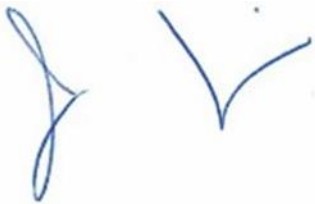
In a series of five letters CDPH sent to Shlomo Rechnitz on July 8, 2016, CDPH denied his applications to operate five nursing homes, citing serious compliance problems in a large number of nursing homes during the three prior years, including an immediate jeopardy finding involving Pacific Rehabilitation & Wellness Center in December 2013.

Summary

As the designated advocates for these residents, it is our responsibility to strongly urge you to reject these closure and relocation plans and to petition for appointment of a receiver to operate these facilities. Closure and relocation will no doubt cause serious harm to residents and impair access to critically needed services in Humboldt County.

We look forward to hearing from you about your investigations and reviews and look forward to working together with you and CDPH to protect the interests of each and every resident who could be affected by the planned closures.

Sincerely,

A handwritten signature in blue ink, appearing to read 'JR' or similar initials, with a stylized flourish.

Joseph Rodrigues
State Long-Term Care Ombudsman

A handwritten signature in blue ink, appearing to read 'Suzi Fregeau' in a cursive script.

Suzi Fregeau
Ombudsman Program Coordinator
Area 1 Agency on Aging
Long-Term Care Ombudsman Program

Enclosure