National Continuing Care Residents Association (NaCCRA)
1101 Connecticut Ave NW, Suite 450, PMB #61, Washington, DC 20036-4359
877-488-4004

November 7, 2023

The Honorable Senator Bob Casey, Chairman
The Honorable Senator Mike Braun, Ranking Member
The United States Senate Special Committee On Aging
G16 Dirksen Senate Office Building
Washington, DC 20510-6050

Dear Senators Casey and Braun,

We write on behalf of NaCCRA, the National Continuing Care Residents Association, to ask the Committee to consider, review, and make recommendations regarding the business and service model known as "CCRCs" (Continuing Care Retirement Communities, or Life Care Communities). CCRCs are retirement communities which include cottages or apartments for active seniors living independently, and which also include facilities for skilled nursing, assisted living, and memory care to accommodate the functional decline which can come with aging. Many senior citizens around the country live in these communities and are directly or indirectly impacted by CCRC business practices.

Unfortunately, the CCRC model for secure retirement living is currently at risk for want of up-to-date legislation, regulation, and enforcement, notwithstanding the two series of hearings held many years ago by your Committee.

The first series of hearings was held during the early 1980s, when many CCRCs were not pricing the services offered to residents correctly. As a result, some CCRCs were suffering financial failure, with dire consequences for the residents who had invested their life savings in them. By 1983, actuaries began looking into CCRC financing and made several helpful recommendations. Actuarial science offered a better way to price entrance fees and monthly service fees adequately to support the services offered. The Committee's 1983 hearings helped shed light on these important issues to improve the standards of practice.

The second series of hearings occurred during 2010, when many CCRCs were again experiencing financial difficulties. The Committee offered recommendations to the state regulators for increased disclosure and transparency. The Committee expected that making more information available would enable concerned seniors seeking a CCRC to make better financial decisions, so that market dynamics would weed out poorly performing communities.

Unfortunately, most states have not acted forcefully on the Committee's recommendations, and information is still spotty. Market dynamics are complex. Circumstances and operating models have changed dramatically, but CCRC financial and service delivery difficulties continue. Despite the valuable suggestions emerging from the Committee's previous hearings, the last dozen years have seen many changes in the business, technological, and health care environment. The playing field is different today. There is a need for fresh and effective guidance of CCRCs at the national level.

The Senate Special Committee on Aging is an appropriate and unique national forum for analyzing and improving the situation of CCRCs. Throughout its existence, it has been a productive focal point for discussion and debate on matters relating to older Americans. Often, the Committee has submitted its findings and recommendations for legislation to the Senate, with productive results. In addition, the Committee has published a variety of educational materials to assist older adults.

NaCCRA believes several aspects of CCRC life could be better monitored and regulated at the national level without requiring expansion of federal agencies or any increase in the federal budget. In particular:

1. A new federal statute could mandate that any CCRC requiring an entrance fee exceeding two years' worth of monthly fees must commission, pay for, and report a formal actuarial study at least every three years, applying Actuarial Standard of Practice Number 3 (ASOP#3). Such studies should be shared in full (copies available on request, with appropriate confidentiality safeguards) with current and prospective residents or their legitimate representatives. The full actuarial reports should be shared, since the conclusions depend on a number of technical assumptions, which in turn need review by stakeholders, including residents.

2. CCRC residents make substantial financial and personal investments in their communities. They are major financial and life-experience stakeholders. However, presently they have no formally required way of participating in or influencing their community's governance. We ask the Committee to explore this issue and seek ways to make CCRC management more accountable to the residents. It is funds from the residents which make the CCRC operation possible. The purpose of the CCRC is to support the residents. This is a fiduciary trust, even if not spelled out in contractual language. Residents need equitable empowerment in the governance of an institution which relies entirely on their funds for its operation.

3. A new federal statute could disallow clauses in resident contracts which make the contract non-restrictive for the provider but disempowering for the resident. For example, many current contracts contain "notification" clauses such as "(The management) shall have full authority to increase or decrease daily fees, and make changes in the scope of services, upon a 30-day written notice to the resident." Such clauses allow the provider unilaterally to alter any services and any rates at will, and merely to provide a 30-day written notice. The residents have invested their life savings and moved their households into the CCRC. They have no realistic options or leverage when such a notice is given. Such one-sided provisions favoring providers over residents should be disallowed. The contracts should be fundamentally more equitable.

NaCCRA appreciates the Committee's past and present recognition of the problems that affect elderly people and its work to reduce those problems. NaCCRA is comprised of and led by elderly residents of CCRCs and is the only national organization representing residents of these facilities. The situation we face in 2024 is quite different from that of 2010 and is evolving rapidly. As society evolves and advances, the specific problems confronting the elderly likewise change. We as CCRC residents are elders. We are alert and engaged, and we are working to benefit our peers and the next generations following us, as we face today's challenges.

We believe that now is an excellent time for the Committee to take a fresh look at the CCRC business models and to seek practical, low-cost ways to strengthen them. NaCCRA urges the Committee to investigate in depth and to consider introducing legislation addressing the three issues described above.

Sincerely,

President, National Continuing
Care Residents Association