



BOARD OF DIRECTORS MEETING

June 7th, 2023 Boardroom 8:30 AM

A G E N D A

Welcome	Steve Tilley, Chair
Opening Prayer	Dick Hann
Approve Minutes of 5/3/23	

Reports:

Financial Report	Henry Brubaker, VP Finance
Governance Committee	Keith Wagner
Strategic Planning Committee	Ray Flagg
Finance Committee	Roy Meyer
Development Committee	Dr. Dennis Gingrich
Resident Life & Health	George Porter
Human Resources	Sandy Pintarch
President's Report	Jeff Shireman

Dates to Remember:

<i>BBQ Bash</i>	<i>July 29th</i>	<i>All Day!</i>
<i>September Board meeting</i>	<i>Sept 6th</i>	<i>8:30 am</i>



Londonderry Village

A COMMUNITY ROOTED IN BROTHERLY VALUES

BOARD OF DIRECTORS MEETING • MAY 2023

The Londonderry Village (LV) Board of Directors met on May 3, 2023 at 9:00 a.m. Board Chair Steve Tilley opened the meeting and Rev. Belita Mitchell led the group in prayer.

Present: Board Chair Steve Tilley and members: Ray Flagg, Bob Fortna, Dr. Dennis Gingrich, Dick Hann, Rev. Ron Ludwick, Roy Meyer, Rev. Belita Mitchell, Sandy Pintarch, George Porter, Tom Shenk, Michael Swank, Chet Rose, Keith Wagner and Jim Williams. Staff in attendance were President Jeff Shireman and Henry Brubaker, VP of Finance/CFO

April 2023 minutes reviewed and approved as presented. **<Approved unanimously>**

FINANCIAL REPORT:

Henry Brubaker reviewed the March 2023 financials. Highlighted points include:

- Census in Nursing was 65 (3 mo. average: 63) and Personal Care census is essentially full at 38 (3 mo. average: 38). Independent Living census dropped slightly at 91.2% (Apartments) (3 mo. Average: 92.9%) (Cottage/Duplex) remains strong at 92.1% (3 mo. Average 91.4%)
- Nursing payor mix: Medicaid rose slightly to 32.3% (3-month average: 32.7%), Private Pay remained steady at 58.5% (3 mo. average: 58%) and Medicare rose to 9.2% (3 mo. average: 9.3%).
- Operating Revenue exceeded the budget due to gains on unit turnover and entrance fees, while Operating Expenses were over budget mainly due to higher-than-expected employee health insurance claims.
- Select Indicators:
 - Expense to Revenue operating ratio was 106.0% for February (101.8% YTD).
 - Days cash on hand: 396.1 (150.0 measure) / Debt service covenant: 6.13 (1.2 measure).
 - Payroll trends as of 2/2023: Nursing hours per resident day was 4.90 (2.7 industry requirement); Agency Hours increased to 288 and Total Overtime Hours were 1,223 respectively; Total FTE's were (excluding PRN employees) 167.

GOVERNANCE COMMITTEE:

- The Governance Committee met twice to review changes of the Bylaws and Policy & Procedures. Term limits were discussed and Mr. Williams suggested that the Board consider allowing an Officer to serve on the Board for an extra year consistent with their term as an Officer. Mr. Wagner informed the Board that we have 28 days to make amendments. Copies were given to Board members for initial review. A decision was made to discuss and approve these changes at the next Board meeting.

STRATEGIC PLANNING COMMITTEE:

- Chair Flagg asked member Bob Fortna to report on a recent meeting with a Township Supervisor concerning the delays caused by the current process for securing land development approvals, particularly the issues associated with the County's contracted engineer, Rick Bolt. It was noted that approximately half of the Townships in Lebanon County use their own engineers for land development, not the County Engineer. Bob Fortna reported that NLT is very concerned about the issues we raised, and asked us to contact them directly if we encounter similar issues in the future.
- Regarding Fox Run, Jeff Shireman said that some 'value engineering' would likely be needed to reduce the costs in Phase 1, particularly with regard to the hybrid villas. Concerning renovations to Tranquil Terrace, Jeff noted that a recently received proposal from architects Beers & Hoffman for \$143,000 was a little higher than expected, but would need further exploration of the details and scope of the project.

FINANCE COMMITTEE:

- Henry mentioned there is a new Relationship Manager with Fulton Bank and he will be meeting with her bring her up to speed on our construction progress; Henry has secured the necessary permits and has letters of credit in place. We are still wrapping up details on Phase 1 and 2.
- Due to extensive delays in the start of Fox Run, the initial calculations estimate an increased construction price in the range of 20-25%. Henry noted the Fulton Bank increased line of credit to \$2.5 million, with the option to raise the limit to \$4.5 million. Letters of credit have been sent.

DEVELOPMENT COMMITTEE:

- Looking ahead for the year, Dennis noted that it has already been a generous year of giving from the Buddy Society and our Church partnerships. The Buddy Society Dinner had approximately 100 guests. Jeff presented a Power Point presentation featuring quotes from families that expressed their gratitude and appreciation.
- The Volunteer Appreciation Dinner had approximately 150 guests and went very well.
- Dennis indicated the BBQ has a new name which is The Summer BBQ Bash and will be held on Saturday, July 29th with a variety of activities and food choices.
- Chair Gingrich encouraged Board members to attend the various fundraising events as able; a list of the 2023 Development Department fundraising events will be provided to all members.

RESIDENT LIFE/HEALTH

- Committee Chair George Porter reported that the Resident Life/Health meeting went fantastic compared to the meetings during the pandemic, which were typically 'cut and dry'. One half of the committee is made up of independent living residents. George thanked Jeff for getting us through the pandemic. He also commented that Mary Lee was present at the April RHL meeting and noted that there is a new resident, (a former retired discjockey from WINK 104), that is starting a new livegame show for residents in the chapel. This should be a lot of fun for residents.
- One resident at the April meeting inquired about a flag on the stage in the Chapel. Mr. Williams indicated there should be no flags at any time, current policy seems to be working. This issue was discussed and it was decided that the tradition will remain as it always has been. There is no need to change at this point. The flag can be brought out for special events and can be reserved with the room booking.
- There was a issue discussed about an IL resident living on Lafiya Drive that was reported by a neighbor for behaving inappropriately. Jeff and Mary Lee spoke with the resident and he has stated it won't happen again. Jeff indicated he has dealt with the situation as best as he can at this point, but noted the resident has a history of questionable behavior.

HUMAN RESOURCE COMMITTEE:

- The Chaplain transition has been completed and Ken Phillips is currently working full time.
- Sandy added that as the Chair of the Nominating Committee, we will need to find two Brethren replacement Board members for 2024. She also indicated she would like to see more female

Board members, and is also hoping to recruit some younger members because of their different perspective on issues. Dennis suggested that younger board members might find it difficult to participate given the Board's current schedule of weekday morning meetings. Meetings are normally held during business hours but there is the possibility of joining virtually. Sandy asked that members call or email her with any suggestions.

PRESIDENT'S REPORT:

- Jennifer Ginder reported on various covid issues. The CDC will stop tracking the county transmission rate on May 11, due to the mortality rate going down. The federal government will no longer pay for covid tests following the end of the Public Health emergency on May 11th. Dennis inquired if we are stocking covid tests. Jeff mentioned there isn't a great need at this point.
- Jeff mentioned next week is National Nurses week, and May is also Older American Adult's month. On Friday, there will be an ice cream truck free to residents and staff.

Next Board Meeting: June 7 at 8:30 a.m. in the Board Room (Zoom option available)

Meeting adjourned at 11:10 a.m.

Respectfully submitted,
Barbara Showers, Recording Secretary



PRESIDENT'S REPORT

May 26, 2023

- As of this date, there are currently 70 residents in Nursing care, which I believe is the highest it has been in 2023; all 40 of our Green House beds are full, and the Leffler Care census is at 30. At that level, we have had to temporarily make some of the Leffler rooms "semi-private".
- The Personal Care Unit is also maintaining a relatively high occupancy at 36 residents. The ILC census presently stands at 471 residents. In total, there are 577 residents currently living on the campus.
- The demand for independent living units (on our Founder's Campus) continues to be strong. At the present time we have 16 units under contract and being renovated for move-ins up through October of this year. There are 5 units (out of a total inventory of 376) that are vacant but not yet under contract. We are, however, expecting seven (7) more independent living units will be coming available due to recent relinquishments. At our present pace, we will match or exceed the 2022 record of 50 units "turning over" in a single calendar year.
- Site work on Fox Run is proceeding onward. As expected, the excavators have run into some veins of rock, which to the fascination of our residents, has been reduced to rubble by the controlled use of explosives! Funk and Sons is still anticipating starting foundations during the month of June. They are on schedule to start delivering units for occupancy by the end of 2023.
- As I write this report, final preparations for the Annual Estate and Yard Sale are underway! With the pandemic receding, we are expecting a big crowd. This year's sale should put the Yard Sale over \$1 million in accumulated profits since the event began some 20 years ago. By the time of the Board meeting, the residents will already be working on next year's sale!
- Chaplain Ken Phillips has already been embraced by the LV community. The residents in healthcare, in particular, are greatly enjoying his devotion programs as they frequently include his singing and guitar accompaniment.

- Our Department of Health Field Office in Bethlehem has told us that we may begin hiring individuals who are not covid-vaccinated. That should help our recruitment efforts a bit.
- At the conclusion of this report is a copy of a Voluntary Compliance Agreement that we have been negotiating (through our legal counsel) with the PA Office of the Attorney General (OAG). This is in relation to the OAG's efforts to compel nursing homes to admit folks who are recovering from opioid use. It is a complicated situation, and I will be happy to explain it in more detail at the Board meeting.
- A little more than two dozen residents attended the Seasons "pre fixe" dinner on May 23rd. By all reports, the residents greatly enjoyed the meal and the fellowship in the restaurant. According to Food service Director, the attendees also enjoyed the BYOB beer and wine policy, and many also brought their own plastic glassware! Another similar dinner will be held in June.
- Staff greatly appreciated the variety of events, treats, greeting cards and Amazon gift cards that were given to them during Staff Appreciation events during May.

Jeff Shireman, President

**IN THE COURT OF COMMON PLEAS OF
LEBANON COUNTY, PENNSYLVANIA
CIVIL TRIAL DIVISION**

Commonwealth of Pennsylvania,
By Attorney General Michelle Henry,

Petitioner,

v.

Lebanon Valley Brethren Home d/b/a
Londonderry Village

Respondent.

CIVIL ACTION – EQUITY

Case No. _____

ASSURANCE OF VOLUNTARY COMPLIANCE

AND NOW, comes the Commonwealth of Pennsylvania, acting by Attorney General Michelle Henry, through the Civil Rights Enforcement Section (hereinafter “Commonwealth” and/or “Petitioner”), which investigated the business practices of Londonderry Village (hereinafter “Londonderry” and/or “Respondent”) pursuant to the provisions of the Americans with Disabilities Act, 42 U.S.C. §12182 *et seq.* (ADA), the Pennsylvania Human Relations Act, 43 P.S. § 951, *et seq.* (PHRA), and the Pennsylvania Unfair Trade Practices and Consumer Protection Law, 73 P.S. § 201-1, *et seq.* (Consumer Protection Law), and states the following:

DEFINITIONS

WHEREAS, for purposes of this Assurance of Voluntary Compliance (AVC), the following definitions shall apply:

- A. “Admissions” means the process by which Londonderry determines which patient referrals will be accepted, allowing patients to receive care from the facility.
- B. “Conduct Provisions” refer to the forms of relief described in section I of this AVC.

- C. “Effective Date” means the date on which this AVC is filed with the Court of Common Pleas of Lebanon County.
- D. “Londonderry Village” means Londonderry Village, a fictitious name of Lebanon Valley Brethren Home, as well as both the successors and assigns of Londonderry Village and Lebanon Valley Brethren Home.
- E. “Medication to treat Opioid Use Disorder” means FDA-approved controlled substances that are prescribed and administered for the purpose of relieving a patient’s symptoms from opioid withdrawal including, but not limited to, Buprenorphine (Subutex), Buprenorphine-Naloxone (Suboxone), or Naltrexone.
- F. “Opioid Use Disorder” means the substance use disorder that results from a history of opioid use and can cause significant health problems and limitations to major life activities.¹

PARTIES

WHEREAS, Petitioner is the Commonwealth of Pennsylvania, by Attorney General Michelle Henry, through the Civil Rights Enforcement Section, with offices throughout the Commonwealth, including Strawberry Square, 14th Floor, Harrisburg, Pennsylvania 17120.

WHEREAS, Londonderry Village operates as a non-profit Pennsylvania corporation, which at all relevant times maintained a registered corporate address at 1200 Grubb Road, Palmyra, PA 17078.

BACKGROUND

WHEREAS, Respondent has engaged in trade and commerce within Pennsylvania by offering and providing inpatient medical and rehabilitative care to consumers at their Londonderry

¹ United States Department of Justice, Civil Rights Division, *Opioid Use Disorder*, February 14, 2023.
<https://www.ada.gov/topics/opioid-use-disorder/>.

skilled nursing facility located at 1200 Grubb Road, Palmyra, PA 17078.

WHEREAS, Title III of the ADA prohibits discrimination “on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation.” 42 U.S.C. § 12182(a). Medical facilities and skilled nursing centers are public accommodations. 42 U.S.C. § 12181(7).

WHEREAS, the Pennsylvania Human Relations Act declares it unlawful to “[r]efuse, withhold from, or deny to any person because of his . . . handicap or disability . . . either directly or indirectly, any of the accommodations, advantages, facilities or privileges of such public accommodation. . . .” 43 P.S. § 955(i)(1). A nursing facility is a public accommodation under the PHRA as it “is open to, accepts, or solicits the patronage of the general public. . . .” 43 P.S. § 954(l). *See also* 43 P.S. § 954(p.1)(the PHRA definition of disability that mirrors the ADA definition of disability).

WHEREAS, Opioid Use Disorder is a disability under the ADA and the PHRA, and a skilled nursing facility that refuses to admit patients because of their Opioid Use Disorder or recovery therefrom, including because of their legal use of medications to treat Opioid Use Disorder, such as Suboxone, violates the ADA and the PHRA.²

WHEREAS, the Consumer Protection Law prohibits “[u]nfair methods of competition and unfair or deceptive acts or practices,” 73 P.S. § 201-3, which are defined to include, *inter alia*, “[e]ngaging in any other fraudulent or deceptive conduct which creates a likelihood of confusion or of misunderstanding.” 73 P.S. § 201-2(4)(xxi). The Commonwealth contends that by instituting

² United States Department of Justice, *The Americans with Disabilities Act and the Opioid Crisis: Combatting Discrimination Against People in Treatment or Recovery*, 2 (2022). https://archive.ada.gov/opioid_guidance.pdf.

an internal policy that allowed for the denial of patient referrals on the basis of disability, Respondent engaged in unfair and deceptive practices within the meaning of the Consumer Protection Law.

WHEREAS, following the signing of the Consolidated Appropriations Act of 2023, Congress eliminated the requirement that medical providers receive a DATA-waiver to prescribe Buprenorphine to patients with Opioid Use Disorder and removed limits on the number of patients that a prescriber may treat. A skilled nursing facility may also be permitted to dispense and administer medication used to treat Opioid Use Disorder to all patients with a valid prescription from an outside physician.

WHEREAS, the Commonwealth investigated the referral and admission practices of Respondent and alleges that, since at least the implementation of the Admission Criteria Guideline, which was in place at the time of the referral in question, attached hereto as Exhibit A (which is no longer in effect), Respondent may have denied patient referrals for patients with “substance abuse issues,” which the Commonwealth contends includes patients with Opioid Use Disorder and/or patients prescribed a medication to treat Opioid Use Disorder.

WHEREAS, Respondent agrees to cease and desist from engaging in the discriminatory practices alleged above and to enact a new policy that will prohibit denying patient referrals on the basis that the patient has Opioid Use Disorder and/or is prescribed a medication to treat Opioid Use Disorder.

WHEREAS, the Commonwealth and Respondent enter into this AVC solely for the purpose of avoiding continued investigation and potential contested litigation.

WHEREAS, pursuant to Section 201-5 of the Consumer Protection Law, the Respondent's agreement to enter into this AVC shall not be considered an admission of violation of law for any purpose. *See* 73 P.S. § 201-5.

SETTLEMENT TERMS

NOW THEREFORE, having conducted trade and commerce within the Commonwealth, Respondent for itself, its officers, and employees, agrees to the following terms, voluntarily entered to resolve this matter:

I. Conduct Provisions

1. *Nondiscrimination*: Respondent, its officers, agents, and employees, shall not engage in any referral or admission practice which constitutes disability discrimination in violation of applicable state and federal law, including, but not limited to, the ADA, PHRA, and Consumer Protection Law.

a. Respondent shall produce a written admissions policy stating that the facility will not deny a patient referral because a patient who is not currently engaged in illegal drug use has Opioid Use Disorder or is prescribed a medication used to treat Opioid Use Disorder.

b. Pursuant to updated Drug Enforcement Administration (DEA) guidance, attached hereto as Exhibit B, Respondent will allow any medical provider on staff that has a DEA registration number for controlled substances to prescribe medications used to treat Opioid Use Disorder, as needed. Further, as appropriate, Respondent will facilitate dispensing and administering such prescriptions for any patients with Opioid Use Disorder, and not deny admission based on such prescriptions.

2. *Notification:* In order to ensure that referring facilities and current and future patients of Londonderry Village are aware of the updated admission policies, Respondent will provide the following notifications:

a. Within 30 days of the Effective Date, Respondent will notify all employees or contractors involved in the admission of residents and/or the prescription or dispensation or administration of medications of the current policy regarding the admission of patients with Opioid Use Disorder, as well as the current federal law regarding the prescription and administration of medications used to treat Opioid Use Disorder.

b. Within 60 days of the Effective Date, Respondent will publish its policies regarding the admission of patients with Opioid Use Disorder and the administration and prescription of medications used to treat Opioid Use Disorder on its website, <https://londonderryvillage.org>.

c. Within 60 days of the effective date, Respondent will notify entities from which it regularly receives patient referrals of its new policy regarding the admission of patients with Opioid Use Disorder and the administration and prescription of medications used to treat Opioid Use Disorder.

II. Miscellaneous Terms

A. This Court shall maintain jurisdiction over the subject matter of this Assurance of Voluntary Compliance and over Respondent for the purpose of enforcing its terms.

B. Nothing in this Assurance of Voluntary Compliance shall be constructed to waive any individual right of action by a consumer, or a local, state, federal, or other governmental entity.

C. Time shall be of the essence with regards to the obligations of Respondent.

D. Respondent agrees to execute and deliver all authorizations, documents and instruments which are necessary to carry out the terms and conditions of this Assurance of Voluntary Compliance, whether required prior to, contemporaneous with or subsequent to the Effective Date, as defined herein.

E. Jeff Shireman is the President/CEO of Londonderry Village / Lebanon Valley Brethren Home, and hereby states that he is authorized to enter into and execute this Assurance of Voluntary Compliance on its behalf; and, further agrees to execute and deliver all authorizations, documents and instruments which are necessary to carry out the terms and conditions of this Assurance of Voluntary Compliance.

F. Any failure of the Commonwealth to exercise any of its rights under this Assurance of Voluntary Compliance shall not constitute a waiver of its rights hereunder.

G. This Assurance of Voluntary Compliance may be executed in any number of counterparts and by different signatories on separate counterparts, each of which shall constitute an original counterpart hereof and all of which together shall constitute one and the same document. One or more counterparts of this Assurance of Voluntary Compliance may be delivered by facsimile or electronic transmission with the intent that it or they shall constitute an original counterpart thereof.

H. This Assurance of Voluntary Compliance sets forth all of the promises, covenants, agreements, conditions, and understandings between the parties, and supersedes all prior and contemporaneous agreements, understandings, inducements or conditions, express or implied. There are no representations, arrangements or understandings, oral or written, between the parties relating to the subject matter of this Assurance of Voluntary Compliance that are not

expressed herein or attached hereto. Each party specifically warrants that this Assurance of Voluntary Compliance is executed without reliance upon any statement or representation by any other party hereto, except as expressly stated herein.

I. Respondent understands and agrees that if any false statement in or related to this Assurance of Voluntary Compliance has been made on its behalf, such statement is made pursuant to and under penalty of 18 Pa.C.S. § 4909 relating to unsworn falsifications to authorities.

J. Respondent agrees by the signing of this Assurance of Voluntary Compliance that they shall abide by each of the aforementioned provisions and that the breach of any one of these terms shall be sufficient warrant for the Commonwealth of Pennsylvania to petition this Court, or any court of competent jurisdiction, to assess the penalties provided for under Section 201-8(a) of the Consumer Protection Law, 73 P.S. §201-8(a), and to order any other equitable relief which the Court deems necessary or proper, including but not limited to ordering the dissolution, suspension or forfeiture of the franchise or right of Respondent to do business in the Commonwealth of Pennsylvania. Respondent does not waive any defenses to any actions that may be brought by the Commonwealth pursuant to, or in response to any alleged violation of, this Assurance of Voluntary Compliance.

K. If any clause, provision or section of this Assurance of Voluntary Compliance shall, for any reason, be held illegal, invalid or unenforceable, such illegality, invalidity or unenforceability shall not affect any other clause, provision or section of this Assurance of Voluntary Compliance and the Assurance of Voluntary Compliance shall be construed and

enforced as if such illegal, invalid or unenforceable clause, section or other provision had not been contained herein

L. Respondent shall not represent or imply that the Commonwealth acquiesces in, or approves of, Respondent's past or current business practices, efforts to improve their practices, or any future practices that Respondent may adopt or consider adopting.

M. If any federal, state or local government or agency passes, issues or promulgates any law, rule, regulation, standard or interpretation, including standards and interpretations of existing law, or any court of competent jurisdiction renders any decision or issues any other pronouncement, at any time while this Assurance of Voluntary Compliance is in effect, which prohibits, restricts, limits or in any way substantially changes the laws and regulations referenced herein, or which otherwise significantly affects either party's rights or obligations hereunder, or which results in this Assurance of Voluntary Compliance or a provision(s) herein as being construed as violative of applicable federal, state or local law (if not preempted), then either party may give the other notice of intent to amend this Assurance of Voluntary Compliance to the satisfaction of both parties, to address such prohibition, restriction, limitation or change. If no further amendments occur, this Assurance of Voluntary Compliance shall expire five years after its effective date.

SIGNATURES ON SEPARATE PAGES

WHEREFORE, intending to be legally bound, the signatories have hereto set their hands and seals.

For the Petitioner:

Commonwealth of Pennsylvania

Michelle Henry
Attorney General

James A. Donahue, III
First Deputy Attorney General

Mark Pacella
Executive Deputy Attorney General
Public Protection Division

Date: _____

By: _____

Corbett L. Anderson
Chief Deputy Attorney General
Civil Rights Enforcement Section
PA Attorney I.D. No. 77027

Molly Pohlhaus
Deputy Attorney General
Civil Rights Enforcement Section
PA Attorney I.D. No. 332428

14th Floor Strawberry Square
Harrisburg, PA 17120
Telephone: (717) 787-0822
Fax: (717) 787-1190
Email: canderson@attorneygeneral.gov

For the Respondent:

Lebanon Valley Brethren Home d/b/a
Londonderry Village

Date: _____

By:

Jeff Shireman
President/CEO, Londonderry Village

Date: _____

By:

David C. Marshall
Counsel for Respondent
Latasha Davis & Marshall, P.C.

**IN THE COURT OF COMMON PLEAS OF
LEBANON COUNTY, PENNSYLVANIA
CIVIL TRIAL DIVISION**

Commonwealth of Pennsylvania,
By Attorney General Michelle Henry,

Petitioner,

v.

Lebanon Valley Brethren Home d/b/a
Londonderry Village

Respondent.

CIVIL ACTION – EQUITY

Case No. _____

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Date: _____

By: _____

Corbett L. Anderson
Chief Deputy Attorney General
Civil Rights Enforcement Section
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Harrisburg, PA 17120
Telephone: (717) 787-0822
Fax: (717) 787-1190
Email: canderson@attorneygeneral.gov

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of this Assurance of Voluntary Compliance
upon all other parties or their attorney of record by:

_____ Regular First Class Mail
_____ Certified Mail
_____ Electronically Filed
_____ Other

The response date: N/A

Name (typed)

Signature

Dated: _____

ZIEGLER INVESTMENT BANKING

SENIOR LIVING FINANCE Z-NEWS

Page 1 | Week of October 31, 2022

FEATURED ARTICLE

THE "MARGIN VS. MISSION" CONVERSATION

Yes, we are bringing forth the topic of "*No Margin, No Mission!*" This is not a phrase that is necessarily new within the not-for-profit sector as it has been debated for many years. What we would argue, however, is that the importance of this statement, and the lively conversations that surround it, have a greater sense of urgency in today's environment. We are transitioning out of the acute phases of the COVID-19 pandemic (hopefully!) and are recognizing that we are indeed in a more complex, rapidly-changing world. Bottom-line, operating in the senior living & care environment today requires greater resources and sophistication than in years' past. What we are aiming to do with this week's newsletter is to bring forth important points underneath the *No Margin, No Mission* statement. The hope is that these observations, examples and points of discussion can help boards and leadership teams process important decisions and set forth a strong path for the future of their organizations.

The list below details a series of scenarios related to the margin and mission topic, followed by considerations for providers who may be facing these exact situations.

- **Not-for-Profits are not in business to make money.** We disagree! How else can a not-for-profit grow its mission and enhance current offerings without profits. No, those profits do not line the pockets of investors, but are rather invested back into the organization for mission expansion and growth opportunities. As a sector, we have generally agreed that having a margin is a good thing, but surprisingly this sentiment can still be in play within some organizations.
- **Consistent poor financial performance is accepted for too long.** There is a difference between a short-term bump in the road and a longer-term trend with limited light at the end of the tunnel. There is truth to the stereotype that not-for-profits can take too long to make decisions. Sadly, in today's environment, the runway has shortened for organizations who look away from what their data is telling them. How much mission can you afford before you go out of business? We know recently, we have seen more closures in our sector than in prior years. There are many reasons for this, but for some, poor financial performance became accepted as the norm, which is not a sustainable business model.
- **Struggling service lines are supported by other means.** There is some business viability to this statement, but it depends on the strategy being implemented. Many not-for-profit senior

living organizations will subsidize services for low-income seniors through margins attained in other successful service lines. This is not necessarily an irrational approach. However, having a business model that is completely dependent on donations, grants or other similar means is a risky approach. That may be a band-aid, but not necessarily a long-term strategy. Some of this depends on the diversification of offerings and ability to spread risk throughout the organization, but if an organization has a single service line that lives donation-to-donation, that may not be the ideal model.

- **What the mission looks like can change over time.** It is important that boards and leadership teams do not get too stuck in the past and be reluctant to change. While it might be hard to think of as no longer having the original nursing home that founded the organization or to perhaps reinvent oneself, it is often necessary. We sometimes avoid making important business decisions because we do not pivot quickly enough. We have observed on a number of occasions where an organization might decide to sell or exit a community or service line and then use the proceeds from that sale to grow in other areas. These business decisions do not kill mission, they enhance it.

There are many other scenarios that can unfold, but these are some of the more common situations that unfold. We acknowledge that organizations are, across the spectrum, beginning the margin and mission discussions. Every organization is unique. We also acknowledge that these are not easy conversations. Frankly, they can sometimes be heart-wrenching. However, this is the highest calling of the board. How can you make the tough, but necessary decisions to ensure the perpetuity of the mission, even if that mission looks a little different than it did in the past.

Ziegler is positioned to be a resource to not-for-profit boards and can help provide perspective on these strategic decisions. If we can be of assistance or if you have any specific questions about this article or other related items, please reach out to the Ziegler representative in your region to learn more.

LISA MCCrackEN
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CAPITAL :: INVESTMENTS :: ADVICE

HOW TO LAY THE FOUNDATION FOR AN EFFECTIVE STRATEGIC PLANNING PROCESS

by Love & Company | Apr 13, 2023

by Diane Burfeindt, Managing Principal, Trilogy Connect

For many years, senior living organizations faced similar challenges, and most developed a 'bag of tricks' to address them—proven strategies that could be deployed to get the organization through inevitable rough spots. From time to time, though, the senior living field has experienced a period of transformational change. This is one of those times, and we've arrived at a pivotal moment. Staffing challenges, rising costs and more have changed the game. The old bag of tricks is gone, and new strategies demand a different perspective.

At times like this, it can be easy for leadership to get absorbed in developing tactics to address a specific challenge and in doing so, lose sight of the benefits of stepping back and developing a fresh, guiding strategic framework that addresses this significantly changed environment. To do that, both the board and leadership need to get comfortable with the fact that what made them successful in the past is not necessarily what will make them successful in the future.

FIRST, GET THE BOARD ON BOARD

Candid interactions and tough questions are necessary for developing effective strategies; that can only happen when the board and C-suite are on the same page. When the board of directors has a collaborative relationship with leadership, the work of the entire organization can be elevated.

What often precludes a better relationship, though, is that board members tend to think, "I'm not in the senior living business, so I can't truly understand it." Board members were invited to join the board for a reason—their unique lived experience, expertise or success in their own field, or their thoughts as consumers. Their ability to think differently about the challenges facing the senior living field can be a critical advantage to the organization.

WHERE ARE YOU NOW? WHERE DO YOU WANT TO BE?

In many ways, there was a suspension of true governance during COVID. Boards supported whatever needed to be done to keep communities going as they adapted to ever-changing protocols. For over two years, boards and leadership were laser-focused on the present. Most now recognize that it's time to return to looking toward the future and figuring out what's next.

So how do you get the planning process started? Today, it's more important than ever to have a clear picture of the organization's current state, and be specific about the desired future state. To help with this, [Tad Melton](#), my co-presenter in our upcoming webinar, addresses the importance of the financial education of board members in his blog and the importance of providing that education in a way in which the entire board can participate and engage.

When addressing strategic planning, it is important that organizations approach it from the perspective of how to develop achievable goals with reasonable evaluation criteria. Many leadership teams are experiencing extreme burnout. For too long, they've been consumed by the daily slog of facing the field's challenges. So, it's important to be intentional about taking incremental steps toward transformational change each and every day. Your leaders should be asking themselves the question, "Where are we heading and what decisions do I need to make in a different way to get closer to that reality?"

TAKE A LOOK AT OTHER FIELDS

I like to think in analogies, stepping back and learning from how other fields have managed transformational change.

Take the recording industry. It was a tightly controlled monolith. If you wanted music, the industry sent it to a store where you went and bought it. Then, when streaming was introduced, the industry panicked. How could they make money when customers could listen to whatever song they wanted whenever they wanted, with only the tiniest bit of revenue generated each time a song was streamed? At the time, the thought of a song being streamed a billion times was unimaginable. Yet, in 2021, 2.74 trillion songs were streamed globally. Change, while sometimes difficult, brings with it the possibility of being beneficial if we're prepared to capitalize on it. Is a change of this magnitude currently on the horizon for senior living?

In an example closer to home, hospitals have faced pressures similar to those facing senior living. When hospitals reached a point where they could neither meaningfully increase revenue nor cut costs, they began a process of consolidation, leveraging their scale to impact both cost and revenue. For senior

living, consolidation through affiliations and/or acquisitions offers many potential benefits for senior living organizations, which Tad also addresses in his blog.

THINK BIGGER ABOUT TECH

Just like in the recording industry, technological advances have played a key role in transforming many business sectors, and should play a key role in moving senior living forward, too. Every day in fast food outlets and convenience stores, people of all ages successfully place food orders via a kiosk—including people who are using aging services and moving into senior living residences.

However, when compared to other fields, senior living tends to be a late adopter of technology, particularly when it's resident-facing. For a long time, there seemed to be a prevailing opinion in the field that seniors don't adapt well to technological advances. However, the rapid increase in our market's use of technology in the COVID and post-COVID eras suggests otherwise.

In many instances, the level of technology employed in our senior living organizations is unacceptable in the world we as leaders live in—a world of apps, on-demand ordering and the use of our phones to connect us with everything. Instead of looking for a single technology solution, we need to look at our technology infrastructure and how it will support a smaller workforce and a more coordinated system of care and services.

DESIGN THE FUTURE YOU WANT TO HAVE

Ever since the first modern community opened in the early 1980s, senior living has been a place where a resident's needs are understood and coordinated. However, to remain an expert voice in aging, we must move away from old reference points. Instead, we must ask ourselves, "How many of us would enjoy living in the environments we've created?"

This is a great place to employ your board. While many people serving on the boards of senior living organizations are age- and income-qualified to live in a community, when asked if they'd use the environment they are designing, planning and volunteering in, there is a disconnect between their desired aging path and the one they are governing. Giving board members the opportunity to routinely engage with leadership in ways that can elevate their role and help move the organization forward is the key to successful planning and governance.

In fact, executives who've carefully invested effort in helping the board understand the underlying trends and competitive environment that are driving the need for transformational change, and eliciting their perspectives, stand a much greater chance of receiving support for the development and implementation of the strategic plan to achieve that change.

More organizations might consider compensating board members. In creating such groups, board members with strong financial and organizational leadership skills who know what it takes to guide an organization to success could be recruited. Right now, I am not aware of many paid boards. The ones I am aware of tend to be smaller and more focused, but there aren't enough to draw firm conclusions. It's the beginning of what I believe needs to be a new trend in the field.

PLANNING FOR SUCCESS

Senior living is facing unprecedented financial challenges. At the same time, our market is growing. We're at an inflection point, and organizations that strategically plan for success are those most likely to achieve it. Just because the aging demographics should bring more residents to our communities doesn't mean our field is guaranteed success. To quote Will Rogers, "Even if you're on the right track, you'll get run over if you just sit there."

State committee urges more training, pay for skilled nursing workers in agency staffing review

JESSICA R. TOWHEY

MCKNIGHT'S LTC NEWS

MAY 10, 2023

Skilled nursing facility workers contracted through staffing agencies earn 40% to 84% more than in-house labor at rates that have grown far faster than inflation, according to a new report from a legislative committee tasked with investigating agency practices during the pandemic.

The report from the Pennsylvania State Government Commission also made numerous recommendations on improving working conditions at in nursing homes, including raising wages, improving training and career development, and fighting “negative stigma.”

On July 1, facilities a minimum staffing rule will increase required hours of direct care per resident per day from 2.7 to 2.87. That will again increase in July 2024 to 3.2 hours of direct care per resident per day.

Despite a [17.5% increase](#) in the Medicaid reimbursement rate in 2017, the Pennsylvania Health Care Association said that a lack of funding and the increase in staffing requirements will lead to a “silver tsunami” that will strand older Pennsylvanians without care.

“This report is yet another warning for responsible action,” association President and CEO Zach Shamberg said in a statement Tuesday to *McKnight's Long-Term Care News*. “Pennsylvania must address the issue of sustaining long-term care before the wave crashes and residents need to be rescued.”

The [report](#) noted that the long-term care sector requires a \$99.9 million annual investment to cover the full costs of services, which would translate to an average increase of \$12.50 per resident per day for a Medicaid reimbursement of \$263.05. That increase is one of seven recommendations in the report.

The other recommendations are to:

- Increase the wages of direct care workers, 40% of whom were part of households earning wages 200% below the federal poverty level in 2019.
- Improve the work environment of direct care workers by enforcing disciplinary rules, protecting health workers from violence in the workplace, and ensuring adequate staff.

- Establish a quality-based reimbursement system to incentivize better care.
- Improve training opportunities for direct care workers.
- Provide direct care workers access to more career development opportunities.
- Address the negative stigma surrounding direct care in Pennsylvania.

The report also went after staffing agencies, whose prices have soared during the pandemic.

"The estimated 45 to 75 percent mark-up rate by agencies for providing contracted workers may be typical of their industry, however, they are not costs the Pennsylvania long-term care system can sustain," report authors wrote.

"While there will likely always be situations which demand the use of contracted workers, given the nature of how skilled nursing facilities are funded, use of contracted staff should be kept to a necessary minimum."

In 2022, the average wage for an in-house RN was \$35 per hour, compared to \$48 per hour for a contract worker; \$24 per hour for an in-house LPN, compared to \$35 for a contractor; and \$15 per hour for an in-house CNA, compared to \$28 for a contractor, according to the report. It also found that the full cost of salary and wages paid to agencies can be twice the cost of non-contracted labor.

Meanwhile, the number of beds available for residents declined by 4.7% from 2013 to 2022. Researchers also noted that the cost of a private bed in a Pennsylvania SNF is \$116,800 – \$24,000 more than the national median.

Simon Sinek on the 7 Eternal Truths of Entrepreneurship

BY [CHRISTINE LAGORIO-CHAFKIN](#), EDITOR AT LARGE, INC. [@LAGORIO](#)

In 2009, Simon Sinek delivered a TED Talk that explored his notion that all great leaders share a trait--what he called "knowing the why." It has become the third-most-watched TED Talk of all time. Some 14 years later, the best-selling author's ideas continue to resonate with entrepreneurs, and he's now scaling his message of servant leadership through his new online learning platform, the Optimism Company. Begun as a pandemic pivot, it boasts 20 employees working to infuse a spirit of helping others into the self-help industry. Sinek, 49, says it's all part of his dream that more people might channel their human skills so we can better "learn to cooperate, and take care of one another." That's just one of the many ideas Sinek's collected along his way.

--As Told to Christine Lagorio-Chafkin

1. Make room for blank space.

Like so many of us, I'm recovering from feeling like I have to be productive every moment of every day. I started building in blank time in my day, random two- or three-hour blocks when no one could schedule anything. When we constantly engage our "thinking" brain, we have access only to our conscious thoughts. Accessing our unconscious brain--often the source of our best ideas--takes blank space. You have to allow gaps for the mind to ruminate.

2. Never, ever stop learning.

When you start a business, you suddenly find yourself being a leader, and that's a skill that needs to be learned. It typically comes through trial and error, a road that's often longer and bumpier than it need be. For a smoother path, the best leaders read, they watch talks, and they talk to other leaders--not just about fundraising, but also about leadership.

3. Have a purpose, not a slogan.

Every business seems to have a purpose statement or vision statement on its website. Not - because they actually have a purpose, but because it's fashionable. Instead, it should be the standard by which you uphold your ethics and integrity, and by which you make financial decisions. Otherwise, you end up doing things that violate the very purpose on which your company is purportedly built. It's insidious.

4. Go beyond growth.

I do not understand the obsession with growth. Why does your company exist? Growth is not the answer. It's a result. To build a company solely for growth means you're going to make decisions only to grow. And integrity, ethics, quality-- all of those things will necessarily suffer as a result. Growth is a dial, it's not an absolute. It is also not a way to build a long-lasting, successful business.

5. Always show up to give.

When someone walks onstage and starts telling you all their credentials and their URL, that means they want followers, they want business, they want clients. That's the biggest lesson I teach in public speaking: Put your ambitions aside, and care about enriching the people in front of you.

6. Optimism is ideal; pessimism is necessary.

Every pessimist I know says, "I'm not a pessimist. I'm a realist." And they all think optimists are naive. Let's be clear: I'm not against pessimists. I'm against only a pessimist who stands on the sidelines and jeers. You should want to work with people who see a problem and then roll up their sleeves to help solve it.

7. You don't need to know everything.

When I started my business, I thought I had to have all the answers. I believed my credibility relied on my intelligence and understanding of everything. That's so stupid. The biggest lesson I learned was to say, "I don't know," and to ask for help. The effect has been profound.

Surgeon general tags loneliness as next public health threat

ALICIA LASEK

MAY 3, 2023

MCKNIGHT'S LTC NEWS

The U.S. surgeon general on Tuesday declared loneliness, a condition linked to health comorbidities and premature death, as an American epidemic requiring national action.

The impact of social disconnection has reached epidemic proportions in the United States, Vivek H. Murthy, MD, wrote in [an advisory](#) released Tuesday, May 2.

Approximately half of U.S. adults report experiencing loneliness, he reported. And the effects of loneliness have been equated with the [impact of smoking up to 15 cigarettes a day](#). What's more, researchers have linked poor or insufficient social connection with a 29% increased risk of heart disease and a 32% increased risk of stroke, as well as dementia and depression, among other adverse health conditions.

Considering the growing evidence for these outcomes, Americans are obliged "to make the same investments in addressing social connection that we have made in addressing tobacco use, obesity and the addiction crisis," Murthy wrote.

The [advisory](#), Our Epidemic of Loneliness and Isolation 2023, calls for advancing a culture of social connection through public policy, healthcare initiatives and individual efforts.

Healthcare workers, systems and insurers can get started toward this goal by explicitly acknowledging social connection as a priority for health, the advisory states. Murthy foresees healthcare providers receiving formal training on the health and medical relevance of social connection and its associated risks, and advanced training on prevention and interventions.

He also called for the integration of social connection into patient care, including the addition of assessment results in electronic health records, patient education on risk factors, and interventions that provide psychosocial support to patients. The latter would include involving family or other caregivers in treatment, group therapies and other evidence-based options.

Murthy sees this mission as a cultural shift that would combat the harmful societal consequences of social disconnect. If the United States fails to do so, he wrote, "we will pay an ever-increasing price in the form of our individual and collective health and well-being."

FDA approves toilet seat that monitors health

JOHN O'CONNOR MAY 5, 2023

MCKNIGHT'S SENIOR CARE NEWS

The Food and Drug Administration has given clearance to a health-monitoring toilet seat, according to Casana, its maker.

The Heart Seat received approval for monitoring heart rate and oxygen saturation in adults who weigh between 90 and 350 pounds. Casana claims sensors in the battery-powered toilet seat send health data to providers — and let caregivers know when readings outside a set threshold are detected. The battery-powered device can work for several years without being recharged.

The smart toilet seat contains a rotating cartridge system that can run dozens of tests. The device is cleaned every time the toilet is flushed.

The company plans to file with the FDA for additional monitoring capabilities, such as blood pressure tracking. The toilet seat is expected to be available later this year, according to the firm.

"This clearance is a critical step on our journey to commercialize the Heart Seat," Casana CEO Austin McChord said. "This brings us one step closer to helping patients and healthcare providers across the U.S. manage their health."

Casana was founded in 2018 in partnership with the University of Rochester Medical Center. Founder and Chief Scientific Officer Nicholas Conn first developed the Heart Seat while completing his doctorate at the Rochester Institute of Technology.

"As medicine moves from the physician's office into the home, accurate home monitoring of medical parameters is increasingly important," George Bakris, a Casana adviser, said in a release.

[Remote patient monitoring](#) is a growing part of healthcare. In fact, the market for such products is expected to top \$41 billion by 2032, according to a just-released report by Global Market Insights.

Several factors are contributing to the sector's rapid growth, according to analysts. They include a surge in aging populations, increases in chronic conditions, COVID-19 and cost-driven reimbursement changes.

FEATURED ARTICLE

PHILANTHROPY TRENDS IN NFP SENIOR LIVING & CARE

Last month, we hosted the **25th Annual Ziegler LeadingAge National CFO Workshop** in Nashville, Tennessee. One of the breakout sessions was devoted to the topic of fundraising and was entitled, *"Developing a Successful Fundraising Platform."* Having a disciplined philanthropy approach is critically important for not-for-profit senior living & care organizations. This newsletter aims to delve into the fundraising session, from what we learned, to Baby Boomer traits when it comes to philanthropy, and also resources available to senior living provider organizations.

Understanding the Boomers

During the session, experts from Marts & Lundy shared the results of the most recent *Philanthropy in Aging Services Survey*. One of the clear findings from this industry study was that residents drive the philanthropy in senior living organizations. They are the larger donor base within our sector. Given this, it is obviously important to understand some characteristics of the Baby Boomer generation, the cohort driving significant growth in the older adult population. NonProfit PRO reports that the Baby Boomers represent 51 million donors, with an average gift of \$1,212 and on average, loyal to five charities each. A survey by Qgiv recently found that¹:

- 32% of Baby Boomer donors indicated that it's very important to them to know the organization that they support is well-respected.
- 43% of Boomers still prefer to send their donations through the mail, therefore a combination of online and direct-mail approaches is important.
- The top reason that Baby Boomer respondents stopped supporting a charity was that they felt their money had not been used wisely.
- The next most common reason Boomers stopped supporting a charity was the they were asked for money too often. The suggestion is to be deliberate about how and when you ask them for support and do not overdo it.

It is clear that senior living provider organizations have a leg-up with their fundraising efforts given their existing relationships with residents. This is a natural audience to devote significant resources to.

Industry Benchmarking Resources

The PASS (Philanthropy in Aging Services Survey) that was previously noted is the second industry-specific report released by Marts & Lundy. It is a unique report for the sector in that the vast majority of other benchmarking reports are not specific to the not-for-profit senior living & care cohort. A review of the full report provides more in-depth findings, but some of the key results are noted below.

- Higher board giving is also associated with higher fundraising revenue.
- Median investment in staff is 2.25 full-time equivalents (FTE) per organization, with focus areas in major gifts and planned gifts, annual giving/events, and administrative functions.
- The median fundraising staff revenue per FTE is \$803,580
- Multi-site organizations are more likely to invest more in fundraising and they also raise higher amounts than single-site organizations.
- Benevolent care, capital needs and employee scholarship/support took the top spots for philanthropic investments in 2023.
- Transformational gifts take time. For 53% of respondents, closing a transformational gift took at least three years (yet fundraising positions have a median tenure of only three years).

Learning from Your Peers

During the CFO Workshop, a provider case study was featured whereby the CFO shared their journey and several lessons learned throughout that can be helpful for others. Many of these elements can be common stumbling blocks for senior living organizations. The case study was told in a way that compared "the old ways" to the newer and more effective model they have today. Some of those key points are summarized on the next page.

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CAPITAL :: INVESTMENTS :: ADVICE

"The Old Ways"	Current Paradigm
Informal donor request; passive approach	Commitment to change
Competing efforts (foundation and development fund)	Formal program with written policies
No Development Director	Consolidated into a sole philanthropic entity
Discontinuation of regular event	Have a clear champion; Development Director position
No new programs or outreach	Communication with donors; get input from staff, board, residents, management
Inconsistent results	Highly visible projects
Lack of awareness among donors	Expanded ways to give
Limited perception of impact	Clear communication and examples of the impact of dollars donated

Regardless of whether your philanthropic efforts are under the umbrella of a formal foundation or within a department of your organization, it is important to be strategic and smart in your investment of resources. It is also additionally important to always measure the ROI of your efforts. We hope that the resources in this newsletter help support providers in this approach to fundraising and assist in 'raising' the bar for the sector as a whole.

If you have additional questions related to the topics in this newsletter, we encourage readers to reach out to the Ziegler representative in the region.

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¹*Generational Giving: Baby Boomer Fundraising Trends, Preferences and Patterns. Qgiv.*