



February 23, 2010

*Supporting People,
Health and
Quality of Life*

Main Office:
2201 K St
Sacramento, CA 95816-4922
(916) 441-6400
(916) 441-6441 fax

Southern Calif Regional Office:
560 N. Coast Hwy 101, Ste 8
Encinitas, CA 92024

P.O. Box 370
La Jolla, CA 92038-0370

(760) 944-1666
(760) 944-1049 fax

www.cahf.org

Walter Hekimian
Chairman of the Board

Calvin Callaway
Vice Chairman of the Board

Terry Bane
Secretary/Treasurer

Frances Foy
Immediate Past Chairman

James H. Gomez
CEO/President

Christina Jewett
California Watch
925 L Street, Suite 150
Sacramento, CA 95814

Dear Christina:

Thanks again for sharing some of the data in your upcoming report and for taking time to meet with us. As stated during our meeting, we have many concerns about your interpretation of data from the Office of Statewide Health Planning and Development OSHPD as it relates to skilled-nursing and rehab facilities. Our comments are outlined below.

NFs falling below the 3.2 Nursing Hours Per Patient Day (NHPPD) standard. During our discussion, we voiced the sentiment that there are no excuses for nursing facilities (NFs) to be below the standard of 3.2 nursing hours per patient day and there is need for improvement in this area.

Overall, California's nursing and rehab facilities have made significant strides in improving staffing levels from an average of 3.3 direct care staff hours in 2002 to 3.7 hours in 2007. This exceeds the national average of 3.36 NHPPD. (*NH Compare*) In its Report to the Legislature in January 2009, the Department of Public Health stated that the mean statewide average of nursing hours per patient day had risen in every audited year beginning with 2002-2003 and that the most significant increase in NHPPD had occurred since the implementation of AB 1629.

Calculations used to determine profit.

You calculate year-to-year increases in Medi-Cal revenue as "raises." This should be categorized as income. More importantly, income *minus expenses* equals profit.

- The "raises" include increased revenue for the Department of Health Care Services (DHCS) paying back the Medi-Cal portion of the quality assurance (QA) fee. This isn't an increase in revenue since it is offset by payments made by each facility.
- The increased QA payments by facilities, after the Medi-Cal payback (which is a significant expense), needs to be included in the calculations or deducted from the "raise."
- Medi-Cal revenue includes ancillary revenues which are outside of AB 1629. These revenues should not be counted.

- A more accurate accounting would be to deduct the cost of NF services and QA fees from the revenue to determine if the facility made a profit.

Wage decreases year-to-year.

We believe the calculation of facilities that had decreases in wages year-to-year should not be part of your analysis. First, you analyzed RNs, LVNs and CNAs separately. If the average wage dropped from 2004 to 2008 in any category, it was included on your list.

- A large portion of the “drops” in wages were in the RN and LVN category. There are a small number of employees in this wage category for each facility. If a senior employee was replaced by a new employee at a lower wage, obviously wages would drop.
- There are no data to support the assertion that wages were cut for employees who were continuously employed during the time period.
- In fact, this group of NFs, on average, continued to have a trend of increased wages for each type of nursing care between 2004-2008.

Decreased NHPPD.

We believe this category should be excluded from your analysis because there are legitimate operational issues that may cause NHPPD to decrease and because in the sample you provided, *while NHPPD may have fluctuated, it never went below the mandated 3.2.*

- Facilities are expected to operate efficiently, and they may adjust staffing based on operational needs.
- The overall acuity of the patient mix is in constant flux. Patients change, and facilities change staffing based on those needs.
- The NFs may have changed the mix of staffing, using more RNs/LVNs and fewer CNAs based on resident need.
- There could be legitimate reporting errors in the OSHPD data. Without specific investigation to determine the validity of the reported data or other factors enumerated above, it is not appropriate to make broad allegations related to legal or regulatory compliance. (Data validation is critical to ultimate reliability of any analysis. This is exactly why CDPH performs the specific AB 1629 staffing reviews and also reviews actual staffing compliance during the facility survey process).

In summary, aggregating the wage category and staffing category, as well as those which fell below the 3.2 standard and presenting them in totality as representative

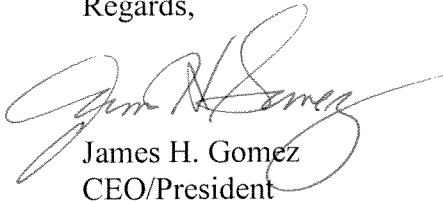
Christina Jewett
February 23, 2010
Page 3

of the profession is deceptive and undermines the credibility of the new journalism model you represent.

It's troubling that the loud voices of some reform advocates and critics often overpower the quiet work of thousands of hard-working, dedicated employees who are providing compassionate, quality care for the state's most vulnerable citizens – 24 hours a day, seven days a week. In the face of these unending attacks by critics, they continue their difficult work while their valuable and often overlooked service provides economic stability to hundreds of California communities.

Please don't hesitate to contact me if you have any questions.

Regards,

A handwritten signature in cursive script, appearing to read "James H. Gomez". The signature is written in black ink and is positioned above the printed name and title.

James H. Gomez
CEO/President

cc: Mark Katches