

issue of the "substitutability" and cost savings of residential care compared to nursing home placement (Kane et al., 1991; Newcomer et al., 1995b; Sherwood and Morris, 1983). In fact, residential care is more likely to be a substitute for living in one's own home than in a nursing home.

What appears to distinguish assisted living from residential care in general and from the somewhat pejorative "board and care" is a matter of philosophy and emphasis on care, not just housing (Kane, 1997). Some have also suggested that assisted living is the rich person's residential care while board and care is for poor people who rely on federal Supplemental Security Income (SSI) and state supplements (SSP) to cover the costs. A recent survey of assisted living regulations in 50 states indicates that four states—Alabama, Rhode Island, South Dakota, and Wyoming—use the terms "assisted living" and "board and care" interchangeably (Mollica and Snow, 1996). For the other states, key characteristics differentiating assisted living from other types of residential care are: an explicit focus on privacy, autonomy, and independence, including the ability to lock doors and use a separate bathroom; an emphasis on apartment settings in which residents may choose to share living space; and the direct provision of, or arrangement for, personal care and some nursing services, depending on degrees of disability.

As noted in an earlier section on care settings, Hawes et al. (1999) recently completed the first national survey of assisted living, using a national probability sample of facilities that met several criteria. These include having 11 or more beds, primarily serving an elderly population; and providing 24-hour staff oversight, housekeeping, at least two meals a day, and personal assistance with two or more activities of daily living (ADLs). According to preliminary findings from a telephone survey, most facilities offer consumers a range of privacy options. Single rooms were the most common residential unit (52 percent); the rest of the units were apartments. The most common type of single room was a private room with a full bathroom; the most common apartment was a one-bedroom for single occupancy.

While most facilities reported a general willingness to serve residents with moderate physical limitations, fewer than half were willing to admit or retain residents who needed assistance with transfers from a bed or chair. Furthermore, fewer than half of participating facilities would admit (47 percent) or retain (45 percent) residents with moderate to severe cognitive impairment; only 28 percent would admit or retain residents with behavioral symptoms such as wandering.

In assessing the extent to which these facilities' characteristics match the philosophy of assisted living, Hawes et al., (1999) concluded that only 11 percent offered high privacy and high service. Another 18 percent provided high privacy but low service. Twelve percent offered low privacy but high service. The researchers noted that residents of these assisted living facilities had considerably more privacy and choice than residents in most nursing homes and in the board and care homes they had investigated in a previous study. Nevertheless, facilities varied widely. A substantial segment of the industry provided environments that did not reflect the philosophy of assisted living. Furthermore, the many facilities whose admission or retention policies excluded people with the cognitive impairments or severe physical disabilities suggests that assisted living is not an environment where those who experience significant functional decline can "age in place."

While assisted living does warrant serious consideration by policymakers, providers,

and consumers, a number of impediments to its development need attention. Today, the assisted living market is primarily composed of the well-off elderly, with little available to moderate- or low-income consumers, as the recent study by Hawes et al. (1999) confirms. This gap is due, in part, to the limited sources and inadequate amounts of public financing (primarily SSI and SSP), which could help subsidize room, board, and care for financially strapped individuals and their families. The most common monthly rate for facilities offering either high service or high privacy was approximately \$1,800 in 1998.

Other impediments to assisted living include concerns, expressed by state policymakers and potential private providers, about balancing consumer choice and privacy on one hand with health, safety, and liability considerations on the other. One major issue reflecting this concern is the degree to which states are willing to moderate their nurse practice acts to allow the delegation of certain tasks, such as administering medication, caring for wounds, and changing catheters (Kane, 1997). A number of states, such as Oregon, Kansas, Texas, Minnesota, and New York, have included nurse delegation provisions, but the latitude and interpretations of the provisions vary tremendously. Not surprisingly, they have met serious resistance by many nurses' organizations, for whom professional turf is as significant as care issues.

The motives of the assisted living industry have also been questioned. The industry includes more real estate developers and hotel managers than care providers. Furthermore, as nursing homes look for new markets and reimbursement strategies that circumvent government regulation, many skilled nursing facilities may simply lay carpet, install door locks, and hang out the "assisted living" shingle. Finally, there are questions about the amount of assistance that these facilities actually provide. According to the study by Hawes et al., 65 percent of the participating facilities supplied "low service"; that is, they did not have an RN on staff or did not provide nursing care, although they did provide 24-hour staff oversight, housekeeping, two meals, and personal assistance. Another 5 percent, categorized as "minimal service," supplied no personal assistance with ADLs. Given that many facilities do not admit or retain people with severe physical disabilities or cognitive impairment, the level of care is additional cause for concern.

[From the New York Times, May 8, 1999]

#### THE NEED FOR CARE AS WELL AS PROFIT

Among other things, the 1990's will be remembered as the decade when developers and older, affluent, anxious Americans discovered each other with enthusiasm, with results both encouraging and worrisome. The concept that both they and Wall Street have embraced is called assisted living. There is no common definition of it. Each of the 50 states regulates it differently, and the Federal Government not at all. But to older retirees who can pay to live in the new and re-conditioned spaces sprouting across the country, the assisted living communities offer something irresistible. It is the promise of Pleasantville, where they can live out their lives gracefully, with hotel services, assistance when they need it, and the chance to hold off or avoid what many of the aged most fear—the nursing home.

For developers, some with no experience in caring for the aged, the attraction is clear. The number of old people of financial means is growing. Some 6.5 million now need some help with the chores of daily living. That figure is expected to double by 2020. Ten years ago there was not even an industry trade

group. Today the Assisted Living Federation of American estimates there is a kaleidoscopic collection of about 30,000 such facilities in the United States, with a million old people living in them, almost all of whom pay their own way.

Some facilities fall into state licensing categories and some do not. Their average national monthly rate per person is \$1,500 but elegant two-bedroom units on Long Island may rent for \$5,000 or more. The National Investment Conference, a group that specializes in the senior housing market, found in a survey of 73 assisted living developments released this year that the median profit margin was 29 percent. For a quarter of the properties, it was more than 35 percent. Those numbers warm Wall Street, but do not guarantee that the communities deliver high-quality services.

Because the phenomenon has grown up around existing rules, many kinds of places can advertise "assisted living." A Government Accounting Office survey, performed at the request of the U.S. Senate Special Committee on Aging, found that about half the residents sign up without being sure what services the facilities provide, how much they cost or what medical care the residents can count on. A quarter of the places surveyed were cited for five or more problems involving quality of care or resident protection within two years.

When Albert Fleischmann, 85, a St. Petersburg Yacht Club member and retired owner of a hardware chain, moved into an assisted living facility in Pinellas County, Florida, in 1997, his daughter was reassured. Patricia Fleischmann Johnson heads a charity that serves as guardian for 134 people in such places. But when Mr. Fleischmann suffered a heart attack at his table in the dining room this year, he was ignored. He called his daughter. She took him to the hospital. She then called back to ask the facility how he was, and was told—as if he were there—that he was "fine." Because Mr. Fleischmann likes the place, he is still there. But his daughter, who testified before the Senate committee, is more concerned now, and she is not alone.

There are no pending bills in Congress, but 32 states are expected to consider legislation this year to increase regulation of the assisted living industry. They should do so. With so many frail lives and so much money involved, this issue is not going away.

HONORING DR. SAM CALLAWAY

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 13, 2000

Mr. McINNIS. Mr. Speaker, it is with deep sympathy that I wish to recognize the life and exceptional contributions of Dr. Sam Callaway. Sam Callaway passed away on July 12, 2000 at the age of 86. Dr. Callaway served the community of Durango, Colorado for forty-two years, beginning his practice in 1946 and retiring in 1998. Dr. Callaway cared for his patients, giving both time and compassion to each person he treated. His dedication was evident in his manner, his attitude of interest and in his practice of going to patients in need, day or night. Known for his bedside manner, Sam Callaway was a model of kindness and gentility. Dr. Callaway was not only appreciated and respected by his patients, but also by his colleagues. He was often requested to assist in surgeries. Dr. Callaway

was active in the community as well, serving as a member of the Durango Elks Lodge and Masonic Lodge. He served our country in the Navy during World War II as part of the medical corps in the South Pacific. Mr. Speaker, Dr. Callaway was a selfless man, giving endlessly to ensure the well-being of others. His service to this great nation, as well as his 42 years of medical service and countless years of kindness to the citizens of the Durango community, are honorable and worthy of recognition. I am confident that in spite of this great loss, the family and friends of Dr. Sam Callaway can take comfort in the knowledge that each is a better person for having known him. It is with this that I pay tribute to the life of this accomplished and wonderful man.

#### REPEAL OF THE FEDERAL CHARTER OF THE BOY SCOUTS OF AMERICA

**HON. BENJAMIN L. CARDIN**

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 13, 2000*

Mr. CARDIN. Mr. Speaker, the House of Representatives recently voted on H.R. 4892, a bill to repeal the federal charter of the Boy Scouts of America. I voted against the bill, and would like to take this opportunity to explain my reasons.

My vote against this legislation should not in any way be interpreted as a weakening in my support for banning discrimination on the basis of sexual orientation. I deplore discrimination on the basis of sexual orientation. I will continue to work to meaningfully expand our nation's civil rights protections for gays and lesbians.

At the same time, I share the concerns raised by others about the policy of discrimination that gave rise to the Supreme Court case in *Boy Scouts of America versus Dale*. Certainly we all recognize the high regard the Boy Scouts of America are held in by millions of Americans. The organization has played a positive role in the lives of millions of young Americans.

In June, a sharply divided Supreme Court held that applying New Jersey's public accommodations law to require the Boy Scouts to admit a homosexual member violates the Boy Scouts' First Amendment right of expressive association. As a practical matter, therefore, the Boy Scouts will be permitted to exclude citizens from participating in their organization solely on the basis of their sexual orientation. I regret the Supreme Court's decision.

Unfortunately, a Congressional review of the federal charter given to the Boy Scouts, and the process the Republican leadership has employed in bringing this bill to the House floor, is not the appropriate venue to address this issue. I am disappointed that the Judiciary Committee did not fulfill its responsibility to hold hearings on this legislation. I strongly believe that the Republican leadership has not properly reviewed the underlying legal and constitutional issues at stake in this bill, and I regret that the bill has been brought up under the suspension of the rules. Under this procedure, members have no opportunity to ask questions or offer amendments. Rather than considering legislation to revoke the federal charter of the Boy Scouts—which in and of

itself will do nothing to protect our society from discrimination—this Congress should be considering substantive legislation to strengthen anti-discrimination laws based on one's sexual preference.

I also believe that Congress should conduct a comprehensive review of its system of granting charters to private organizations. As you know, Congress has chartered roughly 90 nonprofit corporations over the years, including many well-known patriotic, charitable, historical, or educational purpose organizations. I share the concerns of my colleagues that the public may misinterpret the granting of a federal charter as a sign of Congressional or governmental approval of an organization. In 1989, the House Judiciary Committee decided to place a moratorium on federal charters. I believe the Committee should examine whether Congress should allow existing federal charters to lapse, so that Congress is no longer in the business of seeming to endorse private organizations.

Let me reiterate that I believe discrimination on the basis of sexual orientation is unacceptable. I will continue to support H.R. 1082, to expand federal criminal law protection to extend to sexual orientation, and I will continue to work for the enactment of the Employment Non-Discrimination Act (ENDA). I believe that the Congress must take concrete steps to revise government policies that would bring about a more inclusive American family, which embraces all of our citizens as individuals worthy of equal protection of the law.

#### PERSONAL EXPLANATION

**HON. MAJOR R. OWENS**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 13, 2000*

Mr. OWENS. Mr. Speaker, on Tuesday, September 12, 2000, I was unavoidably absent on a matter of critical importance and missed the following votes:

On H.R. 2090 (rollcall No. 460), Exploration of the Seas Act, introduced by the gentleman from Pennsylvania, Mr. GREENWOOD, I would have voted "yea."

On H.R. 4957 (rollcall No. 461), to amend the Omnibus Parks and Public Lands Management Act to extend the legislative authority for the Black Patriots Foundation, introduced by the gentleman from New York, Mr. RANGEL, I would have voted "yea."

On H.R. 3632, (rollcall No. 462), the Golden Gate National Recreation Area Boundary Adjustment Act, introduced by the gentleman from California, Mr. LANTOS, I would have voted "yea."

On H.R. 4583, (rollcall No. 463), authorization extension for the Air Force Memorial Foundation, introduced by the gentleman from Utah, Mr. HANSEN, I would have voted "yea".

On S. 1374 (rollcall No. 464), the Jackson Multi-Agency Campus Act, introduced by the gentleman from the other body, Mr. CRAIG of Idaho, I would have voted "yea."

HONORING DR. KENT VOSLER

**HON. JOHN A. BOEHNER**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 13, 2000*

Mr. BOEHNER. Mr. Speaker, I rise today in recognition of Dr. Kent Vosler. On September 16, 2000 Dr. Vosler will be admitted into the Ohio State University Athletic Hall of Fame. In addition to his contribution to the Buckeye Diving team, Kent was also on the 1976 Montreal Olympic team.

Kent is one of a long list of great Ohio State divers. His accomplishments at Ohio State were many. He was a four time NCAA All-American and a four time Ohio State Scholar Athlete. While a senior in high school he won gold medals in 1 meter diving and in 10 meter platform diving at the national age group championships, and was coached at various times by Ohio State Hall of Famers Ron O'Brien, Vince Panzano and Hobie Billingsley. He later won four National AAU diving championships, was a member of the 1975 Pan American Games American team, and the 1976 Olympic team.

Kent was born December 6, 1955 in Dayton, Ohio but he now considers Eaton, Ohio, in the heart of Ohio's 8th Congressional District his home. He is the only Olympian to ever hail from Preble County, Ohio. All of Ohio is proud of Kent and I congratulate him on his many accomplishments.

HONORING DR. JOE VIGIL

**HON. SCOTT MCINNIS**

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 13, 2000*

Mr. MCINNIS. Mr. Speaker, it is a privilege and an honor to have this opportunity to pay tribute to one of Alamosa's most well-loved and admired coaches, Dr. Joe Vigil, as he prepares to leave Adams State College after a decorated and distinguished 29-year career. Joe has been the embodiment of service and success during his time at Adams State and clearly deserves the praise and recognition of this body as he, his runners and the town of Alamosa, Colorado celebrate his groundbreaking career.

If ever there were a person who embodied the spirit and values that motivate others to achieve success, it is Joe. He has distinguished himself through his exceptional leadership and service that have placed him amongst the elite running coaches in the country. He was voted No. 3 on the list of Colorado's top collegiate coaches in the past 100 years and received the honor of NCAA and NAIA Coach Of The Year 14 times. He has also served the United States as an international coach on 17 different occasions, including several Olympic Games. Most notably, Joe coached his teams to 18 national championships, accounting for more than 350 All-Americans.

Mr. Speaker, Joe's commitment to his community has been so great that it led the Alamosa City Council to proclaim August 12, 2000, Joe I. Vigil day. Their proclamation reads:

"Whereas Dr. Joe I. Vigil has led Adams State College teams to athletic excellence