

SENIORS HOUSING UPDATE



**AMERICAN
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Living Longer Better

July 2020

» UPCOMING MEETINGS

ASHA's Rising Leaders & Mid-Year Meeting Virtual Webinar Series took place June 8 through June 12 and were well-attended by the membership. The recordings of each session may be viewed in the members area "additional resources tab" of the [ASHA website](#) and will be summarized in forthcoming 2020 Rising Leaders and Mid-Year Meeting Report.

REGIONAL ROUNDTABLES

ASHA will not hold its previously scheduled regional roundtable meeting in Boston (July). Our Regional Roundtable Event in Nashville, TN, is however still on the schedule for September 8.

FALL EXECUTIVE BOARD MEETING (October 6)

ASHA's Fall Executive Board Meeting will take place virtually on Tuesday afternoon, October 6th.

2020 CHAIRMAN'S CIRCLE EVENT (November 5-6)

The 2020 Chairman's Circle Event for those who contribute \$2,000 to the maximum \$5,000 to the Seniors Housing PAC in 2020 will take place at the Hotel Bennett in Charleston, SC, November 5-6, 2020. For more information about the Seniors Housing PAC, please [click here](#).

2021 ANNUAL MEETING (January 25-27)

ASHA's 2021 Annual Meeting is scheduled to take place January 25-27 at the JW Marriott in Aventura, FL.

2021 RISING LEADERS AND MID-YEAR MEETINGS (June 15-17)

ASHA's Rising Leaders Meeting will take place June 15-16 in Incline Village, NV, at the Hyatt Regency Lake Tahoe Resort, Spa and Casino. The Mid-Year Meeting will immediately follow at the same location, June 16-17.

» ASHA RESPONDS TO ASSISTED LIVING REPORT

Massachusetts Senators Elizabeth Warren and Edward Markey and Representative Carolyn Maloney of New York released findings on July 2 related to an inquiry launched on April 29 which asked a series of COVID-related questions of 11 large assisted living operators. The report, which can be read by [clicking here](#), found: "high rates of coronavirus in assisted living" (24% with at least one case of COVID-19 among residents); "dangerously high hospitalization and fatality rates" (43% hospitalization rate; 31% fatality rate); "lack of federal reporting by assisted living facilities of COVID-19 cases and fatalities"; "inadequate sick leave policies for employees putting assisted living facility workers and residents at risk"; "lack of routine testing and inadequate testing protocols in assisted living placing workers and residents at risk of COVID-19 outbreaks"; and "PPE shortages which imposed significant hardships on assisted living providers."

ASHA released a statement in response to the report that can be read by [clicking here](#).

» ASHA RELEASES REPORT ON RE-OPENING SENIOR LIVING COMMUNITIES

On June 26, ASHA released a new Special Issue Brief *Balancing Seniors Housing Residents' Safety as Communities Reopen: A Strategic Approach to the COVID-19 Pandemic* which was prepared by Anne Tumlinson of ATI Advisory. The Brief articulates how senior living operators can and will deliver value to residents while effectively managing COVID-19 transmission risk in a non-zero risk environment and includes a comprehensive framework for developing and operationalizing an ongoing strategy. Please [click here](#) to view the new Special Issue Brief, which includes an Appendix with select exhibits from Anne Tumlinson's presentation during the recent ASHA Rising Leaders and Mid-Year Meeting Virtual Webinar series (COVID-19 and the Future of Health Care and Senior Living).

» **ASHA RELEASES PRELIMINARY RESULTS OF CONSUMER SURVEY**

On June 29, ASHA released the preliminary findings from a national consumer sentiment study being conducted for the Association by ProMatura Group. The preliminary results summarize data collected through June 22 about awareness and opinions of seniors housing by 496 prospective consumers from lead lists of 115 ASHA member communities and supplemented by 1,445 surveys completed by age 75+ households with incomes \$35,000+ living in one of the 15 MSAs where the 115 communities are located.

Among survey respondents (from the 75+ households), 61 percent report no change in opinion of independent living communities since the outset of the COVID crisis, although most who have changed their opinion have changed it for the negative (35 percent). Among adult children, over half (53 percent) report no change in opinion of assisted living since the COVID-19 pandemic took hold, with 36 percent reporting a more negative opinion and 11 percent reporting a more positive opinion. Among adult children respondents nearly three fourths (73 percent) report no change in opinion of memory care, while 18 percent report having a more negative opinion and nine percent report a more positive opinion.

Survey respondents regarding all three levels of care (independent living, assisted living, and memory care) also indicate that identifiable cleaning and disinfecting programs and COVID-19 testing with rapid accessible results are essential. Please [click here](#) for the preliminary survey results. The final report will include data from more prospects and is expected to include an analysis by region.

» **ASHA EXPANDS PUBLIC RELATIONS CAMPAIGN**

ASHA's Public Relations Campaign (Senior Living, Today and Every Day) was launched in March and expanded in mid-June to include several new markets with significant seniors housing stock, including: *The Arizona Republic*, *Chicago Tribune*, *Florida Times Tribune (Jacksonville)*, *Orlando Sentinel*, *Miami Herald*, *Seattle Times* and *Tampa Bay Tribune*. The Campaign continues to target influential media sites including *the Wall Street Journal*, *New York Times*, *Washington Post*, *Boston Globe*, *Atlanta Journal Constitution*, *Dallas Morning News*, *Los Angeles Times*, and AARP's website. Top performing markets in terms of click through rates are New York, Los Angeles, San Francisco/Oakland/San Jose, Orlando/Daytona Beach/Melbourne, FL, Washington, DC, Philadelphia, Boston, Atlanta, Denver, and Minneapolis/St. Paul.

Results of the Campaign have been extremely robust with more than 11.8 million Total Impressions and more than 1.1 million Total Video Views. Please [click here](#) to view the Campaign video; please [click here](#) to view examples of the Campaign ads.

» **SENIORS HOUSING PAC UPDATE**

ASHA's Seniors Housing PAC 2020 Campaign is at the halfway point. Members who have not yet contributed or pledged to contribute this year are encouraged to do so as soon as possible to help ASHA's extensive efforts on Capitol Hill.

Contributions to the Seniors Housing PAC must be made on a voluntary basis by individual members of the Association (corporate checks are not permitted), who may contribute up to \$5,000 per year. The Seniors Housing PAC is a crucial element of ASHA's legislative program, allowing our legislative team to have access to key Members of Congress in both parties on committees of most importance to our industry.

To date, we have received pledges and contributions totaling \$213,675 from 80 members of ASHA. Sixty-five of the contributions have been made at the Chairman's Circle level (\$2,000 - \$5,000). Please [click here](#) to view the latest Seniors Housing PAC Report.

For more information about the Seniors Housing PAC, including how to contribute, please [click here](#). Questions about the SH PAC should be directed to Sheff Richey in ASHA's offices at srichey@seniorshousing.org including inquiries about contributing with a personal credit card.

» **RESEARCH UPDATES**

COVID EXPENSE/LOSS SURVEY

ASHA is currently conducting a survey with HealthTrust to examine COVID-related expenses and losses between March 1 and June 30, 2020. Survey responses will be completely confidential, and results will be aggregated and summarized in a Special Issue Brief. The survey can be accessed by [clicking here](#) and should be completed by close of business on Wednesday, July 15th. Questions about the study should be directed to Colleen Blumenthal of HealthTrust at colleen.blumenthal@healthtrust.com.

ASHA 50 SURVEY

Results of the 2020 ASHA 50 survey, an annual ranking of the 50 largest owners and 50 largest operators of senior living communities, will be published in the September issue of Seniors Housing Business. Members who have not

submitted their completed surveys can [click here](#) to access the survey, which should be and returned as soon as possible to Meghan Bertoni in ASHA's offices at mbertoni@seniorshousing.org. Questions about the survey can be directed to David Schless at dschless@seniorshousing.org or by phone at (202) 494-8682.

Information about advertising in the 2020 ASHA 50 supplement can be obtained by contacting Richard Kelley of Seniors Housing Business at rkelly@francemediainc.com or by phone at 914/468-0818.

SENIORS HOUSING COMPENSATION SURVEY

ASHA's annual Seniors Housing Industry Compensation Survey is being conducted by Pearl Meyer (previously Christenson Advisors). The survey captures data on 160 positions within the industry, which is presented in the aggregate. ASHA members who operate senior living communities are encouraged to participate in this study by contacting Davis Steinbrecher of Pearl Meyer at (312) 242-3057 or by email at davis.steinbrecher@pearlmeyer.com.

THE STATE OF SENIORS HOUSING SURVEY

The State of Seniors Housing 2020 is expected to be released in the early Fall and will include aggregated performance data from year-end 2019 along with select summary data from the COVID-era.

Sponsorship opportunities for this year's State of Seniors Housing report are available by contacting Doris Maultsby in ASHA's offices at dmaultsby@seniorshousing.org or by phone at (703) 655-3083.

The State of Seniors Housing research project is a collaborative effort between ASHA, NIC, LeadingAge, NCAL and Argentum.

» NIC COVID-19 DATA COLLECTION

ASHA is encouraging its operator members to participate in a monthly COVID-related data collection effort that will provide more clarity about COVID metrics by care segment. The results, as of May 31, found that independent living had the lowest percentage of confirmed or suspected positive COVID cases at 0.3% of residents, followed by assisted living (1.5%), memory care (4.3%) and skilled nursing (6.7%). To participate in the monthly NIC COVID-19 survey, please contact Ryan Brooks of NIC at rbrooks@NIC.org.

» ASHA FILES AMICUS CURIAE BRIEF

ASHA has filed an Amicus Curiae Brief in the Court of Special Appeals of Maryland in support of *Shelter Senior Living IV, LLC*

v. Baltimore County, Maryland, in a case involving whether recordation and transfer taxes are due on the value of intangible personal property, including goodwill, transferred in a business sale when recorded deeds evidence only conveyance of real property.

ASHA supports the Appellant's assertion that the Court of Special Appeals should vacate the Tax Court's decision including goodwill in the calculation of recordation and transfer taxes. Oral arguments in the case are expected to take place in October and a copy of the Amicus Brief can be found by [clicking here](#).

» FAIR HOUSING UPDATE – HEARING IMPAIRED

In mid-May, the National Fair Housing Alliance (NFHA) sued eight companies that operate 16 senior living communities in the Salt Lake City, Albuquerque and Santa Fe markets for allegedly refusing to provide hard of hearing prospective residents with American Sign Language (ASL) interpreters. The federal court lawsuit was brought after "testers," pretending to be prospective resident family members, inquired over the telephone about whether their hard of hearing "relatives" would be provided with an ASL interpreter to discuss available services. The lawsuits allege that, in violation of the Fair Housing Act, defendants refused to provide interpreters or proposed to charge the prospective residents for such services. The litigation is in the very early stages. ASHA will monitor developments.

» CALIFORNIA CONTINUING CARE ARBITRATION RULING

On June 1, 2020, a California Court of Appeal ruled that arbitration clauses in continuing care contracts are unenforceable because they violate a prohibition against such limitations on tenants' rights in residential rental agreements (*Harris v. University Village Thousand Oaks*). A Motion to the Court of Appeal for a Rehearing was denied and the next step is to petition the California Supreme Court for a hearing.

The CCRC argued that continuing care agreements are not residential rental contracts due to the overwhelming amount of care and services offered beyond mere housing, and the fact that each apartment is licensed under California law to enable the provision of assisted living services. In addition, the defendant's arbitration clause had been approved by the State's CCRC regulatory agency, pursuant to a statute that comprehensively regulates CCRC contracts. The Court of Appeal determined that the subject matter of the dispute was analogous to one that could be brought by

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a tenant against a landlord, and that therefore the tenant protections should apply. ASHA will be working to seek a reversal of the ruling.

» **MEMBERSHIP NEWS**

- ASHA extends its deepest condolences to the family and friends of Stanford "Stan" Shuster, who passed away peacefully on June 17 in San Diego at the age of 78. Stan worked in senior living for more than four decades as the CEO of St. Paul, MN-based Arthur Shuster, Inc, an interior design and contract furnishings company. Stan was a longtime member of ASHA and supporter of the Seniors Housing PAC and was also a founding member of the National Association for Senior Living Industries. Stan leaves his wife Maureen Correia Shuster, four children and six grandchildren, and was preceded in death by his late spouse, Connie Fredrickson Shuster.
- ASHA would like to extend its heartfelt wishes for a long, healthy and happy retirement to Brad Klitsch who retired from Direct Supply on July 1st after nearly 20 years at the company. Brad was a longtime member of ASHA, routinely supported our Seniors Housing PAC, and volunteered on countless industry initiatives over the years. Our sincere thanks to Brad for his friendship and steadfast service to the senior living profession over the years.

The following companies were elected to the ASHA Executive Board at its meeting on June 5, 2020:

- **BMO Harris Bank**, Imran Javaid, Managing Director
- **Lifespace Communities**, Jesse Jantzen, President & CEO

The following new representatives from existing Executive Board Member companies were elected to the Board on June 5:

- **Curtis Brody**, Chief Financial Officer, Hawthorn Senior Living
- **Kris Englov**, President, Aegis Living
- **Danette Opaczewski**, Chief Operating Officer, Revel Communities, The Wolff Companies

» **RECENT AND UPCOMING ASHA PUBLICATIONS**

ASHA maintains an extensive archive of its publications in the "Members-Only" section of the ASHA website (www.seniorshousing.org).

Publications Recently Released and Available Online:

- *Filling Gaps in the Care Delivery Continuum: Opportunities for Assisted Living* (Prepared by Patrick McCormick, CPA and Cindi Raymond, RN, MSN-ED, NHA) (March 2020)
- *Annual Meeting Highlights Newsletter* (April 2020)
- Special Issue Brief: *Balancing Seniors Housing Residents' Safety As Communities Reopen: A Strategic Approach to COVID-19* (Prepared for ASHA by Anne Tumlinson) (June 2020)

Forthcoming Publications:

- *Messages That Matter* (Summarizing the results of a major consumer research study of consumers) (Prepared for ASHA by Margaret Wylde, Ph. D. and Kristen Paris, Ph. D.)
- Special Issue Brief: *From Residents to Regulators: Why Accreditation Matters* (Authored by Jed Johnson, MSW, MBA)
- *2020 ASHA 50*
- *2020 Seniors Housing State Regulatory Handbook*
- *The State of Seniors Housing 2020*