

ALL ASSOCIATIONS MUST PREPARE FOR AGING RESIDENTS

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When the “meals on wheels” volunteer or a health care worker arrives at a secure condominium community, does the association have procedures to facilitate these services?

Today’s “aging in place” trend that encourages people to live independently in their homes as long as possible will pose unique challenges in the near future for association-based communities. As our population achieves greater life spans, an aging member with mental, physical or behavioral problems may by operation of law, or based upon the nature of the association’s governing documents, require extra effort from association managers and board members.

Whether these member residents are creating disturbances for other residents or simply require special attention, associations may need to account for their care and decision-making and even the process for handling their death.

Thankfully, there are tools associations can use to reduce problematic incidents. For example, aging members or their family should identify guardians or conservators whom the association may contact in case of emergency. These guardians may take the member’s place for important measures placed to vote if necessary. Additionally, aging members may execute narrow power of attorney documents that authorize payment to the association for special or monthly assessments directly from their accounts. This measure will ensure payment if the member faces ill health or a catastrophic injury.

The association board should address and communicate procedures to members who receive special services like “meals on wheels” or home health care visits. A simple policy could allow access to common areas for these specific services.

Additionally, associations should address procedures for handling the death of a member: who can enter the unit and who will pay for assessments until new ownership is established.

More involved measures include the changing of governing documents to require members to furnish evidence of ability for self-care. Governing documents may also be amended to provide for disposition of the member’s unit if the member no longer is able to take care of him or herself. Further evidence of inability for self-care

may be sought through county resources, which may recommend the appointment of a guardian or conservator. The guardian or conservator can then make decisions relative to the member’s responsibilities to the association.

At the very least, the association could provide a list of recommended documents that every person — not just the elderly — should have executed, ready in case of emergency, and ultimately filed with the association’s management office. This small encouragement at the outset of the member’s tenure could yield great benefits in the future.

A properly executed health care directive, for example, is of great benefit, especially for members who have no family nearby. Managers can provide medical personnel with the directive in order to assist in the member’s care. A power of attorney can be granted to befriended residents or family of the aging resident, and can authorize very specific functions to be executed on the member’s behalf if the member becomes incapacitated.

Finally, certain trust documents identifying the unit as trust property can be drafted to avoid the association’s involvement with probate proceedings and to ensure a smooth transition to the next owner. The name and contact information of the trustee should be part of a manager’s file, as should all emergency contact information.

Some managers and board members will feel compelled to intervene in a developing situation, but this should not be done prematurely at the risk of liability exposure. It is important that managers and board members become insulated from actually becoming guardians or conservators of a member — or an authorized person for the purposes of a power of attorney. Police intervention may assist the association in developing a record of events for use by future intervening professionals, as the police may not be able to resolve anything long-term.

Association management, board members and member residents themselves should consider the potential problems when people can no longer participate fully as members. Associations that attract or require membership of persons who are at least 55 years old are especially advised to implement some or all of these procedures. Even with a small amount of preparation, the most difficult of these situations can be managed or avoided. ■



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