Healthcare Impact Statement

Regarding the Proposed Sale of Four Retirement Housing Foundation Senior Care Communities in California to Pacifica Companies, LLC

Prepared for the Office of the Attorney General California Department of Justice Healthcare Rights and Access Section

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A. Background of this Healthcare Impact Statement

The California Office of the Attorney General is reviewing the proposed sale of four senior care communities by Retirement Housing Foundation (RHF), a California nonprofit public benefit corporation and its nonprofit affiliates, to Pacifica Companies LLC (Pacifica), a California limited liability company.

Per California Corporations Code sections 5917 and 5917.5, the Attorney General shall consider any factors deemed relevant to the proposed sale, including whether the agreement or transaction may create a significant effect on the availability or accessibility of health care services to, or cultural interests provided by, the affected community.

Per California Code of Regulations, title 11, section 999.5, subdivision (e)(5)-(6), the Attorney General shall prepare an independent healthcare impact statement that includes (but is not limited to):

- An assessment of the impact on Medi-Cal patients, county indigent patients, and any other class of patients.
- As assessment of the effect of the agreement on: staffing for patient care areas, as it
 may impact the availability of care; the likely retention of employees, as it may affect
 continuity of care; and the rights of employees to provide input on health quality and
 staffing issues.

This Healthcare Impact Statement evaluates relevant factors related to the proposed sale including the performance history of the four RHF senior care communities and Pacifica's senior care communities and related entities, including the proposed managers and operators of the licensed skilled nursing facilities (SNFs) and the residential care facilities for the elderly (RCFEs) being considered in this transaction. It concludes with recommendations.

B. Proposed Transaction

Retirement Housing Foundation

The seller, RHF, is a California nonprofit public benefit corporation that is organized and operated to provide housing and services to seniors, low-income families, and persons with disabilities.

RHF was incorporated in 1961 by two clergy and a layman from the United Church of Christ who wished to provide quality affordable housing and services for older adults. This mission has since expanded to include communities for persons with disabilities and limited income families. Today, RHF and its affiliates operate 198 communities in 29 states, Washington, D.C., Puerto Rico, and the U.S. Virgin Islands, and serve more than 22,500 older adults, low-income families, and persons with disabilities.

RHF proposes to sell the following four communities: Auburn Ravine Terrace (Auburn Ravine) in Auburn, Bixby Knolls Towers (Bixby Knolls) in Long Beach, Gold Country Retirement Center (Gold Country) in Placerville, and Pioneer House in Sacramento.

Pacifica Companies, LLC

The Buyer, Pacifica, is a privately held real estate company that is based in San Diego, California. Affiliates of the Buyer own and operate 40 senior living or retirement communities in California and an additional 44 across the United States.

Pacifica has proposed the following managers or operators of the SNFs and the RCFEs involved in the proposed transaction:

- California Senior Living Management, LLC, a new LLC formed by and affiliated with the Buyer. It has applied to manage another RCFE in California, Forest Hill in Pacific Grove. It will manage the RCFEs at Bixby Knolls Towers and Pioneer House.
- Glockston LLC, Del Oro LLC, and Alister LLC, are new LLCs formed by Cypress Healthcare Group, LLC (Cypress). Cypress was formed in 2019 and, since then, has acquired leasehold interests in, and currently operates, six California SNFs via wholly owned subsidiary LLCs. Cypress has formed three wholly owned subsidiaries to operate (1) the SNF and RCFE at Auburn Ravine Terrace in Auburn (Glockston LLC); (2) the SNF and RCFE at Gold Country Retirement Center in Placerville (Del Oro LLC); and (3) the SNF at Pioneer House (Alister LLC).
- 3747 Atlantic Ave SNF, LLC, is a newly formed LLC by the Buyer that will operate the SNF at Bixby Knolls Towers. It is a subsidiary of Buena Vista Healthcare LLC, which was formed in 2019 and operates eight SNFs in California.

For a complete list of the four RHF Senior Care Communities in the sale and the potential managers of the SNFs and the RCFEs, see table 1 below.

Table 1. RHF senior care communities and the Buyer proposed operators/managers of the RCFEs and SNFs.

RHF Community	RHF Affiliate -	Levels of Care	Number of	Buyer-Proposed
	Seller Entity		Units or Beds	Manager/Operator
Auburn Ravine	Congregational	Independent	107	
Terrace	Church Retirement	RCFE	22	Cypress Healthcare Group
750 Auburn Ravine	Community	Skilled Nursing	59	Cypress Healthcare Group
Road				
Auburn, CA				
Bixby Knolls Towers	Bixby Knolls	Independent	168	
3747 and 3737	Towers, Inc	RCFE	53	CA Senior Living Mgt
Atlantic Ave		Skilled Nursing	99	Buena Vista Healthcare
Long Beach, CA				
Gold Country	Gold Country	Independent	150	Cypress Healthcare Group
Retirement Center	Health Center, Inc	RCFE	36	Cypress Healthcare Group
6041 and 4301		Skilled Nursing	68	
Golden Center Drive				
Placerville, CA				
Pioneer House	Cathedral pioneer	Independent	47	
415 P Street	Church Homes #2	RCFE	41	CA Senior Living Mgt
Sacramento, CA		Skilled Nursing	49	Cypress Healthcare Group

C. SNF Performance

This Healthcare Impact Statement analyzes the potential healthcare impact on the most vulnerable groups of residents in the RHF SNFs. The four RHF SNFs in the sale have a total number of 275 beds where the frailest and most clinically complex residents, many of whom are on Medi-Cal, are receiving round-the-clock care. Some are living with Alzheimer's disease (or other related dementias), making it difficult for them to advocate for themselves.

The RHF RCFEs have 152 units where elders reside. RCFE's are not considered health care facilities and tend to have more residents who can advocate on their own behalves. See section D for the analysis of the RCFEs performance.

RHF SNF Performance

Care Compare Five Star Ratings

The Centers for Medicare & Medicaid Services (CMS) launched their Care Compare public reporting website almost 20 years ago. It includes a set of star ratings for each SNF that participates in Medicare or Medicaid based on its performance among all of the SNFs within the state and the United States. The rating system features an overall five-star rating based on SNF performance for three types of performance domains, each of which has its own associated five-star rating.

¹ https://www.medicare.gov/care-compare/ (accessed November 2, 2022.)

The Care Compare performance domains are:

- Health Inspections measures based on outcomes from inspections
- Staffing measures based on nursing home staffing levels and staff stability
- Quality Measures measures based on clinical outcomes of care

The current Care Compare star ratings of the four RHF SNFs reflect a slightly above-average overall performance compared to other SNFs. The four RHF SNFs' average star rating is 3.5 stars out of 5 stars. Auburn Ravine Terrace has a well above-average 5-star overall rating. See table 2 below.

Table 2. RHF SNFs Star Ratings on Care Compare as of September 2022.²

Current Five Star Ratings	Bixby	Auburn	Gold	Pioneer	RHF Avg.
RHF SNFs	Knolls	Ravine	Country	House	
Overall Star Rating	3	5	2	4	3.5
Regulatory Star Rating	3	4	2	5	3.5
Quality Measures Star Rating	5	5	5	2	4.25
Staffing Star Rating	4	4	1	1	2.5

SNFs that participate in the Medicare and/or Medicaid programs have an onsite recertification inspection annually, with very rarely more than fifteen months elapsing between inspections for any SNF. CMS contracts with the California Department of Public Health (CDPH) to inspect the SNFs in California. Inspections are unannounced and conducted by a team of health care professionals who spend several days in the SNF to assess whether the SNF is following federal requirements.

The Care Compare star rating under the regulatory performance domain for a SNF is weighted heavily in the calculation of a SNF's overall star rating. The current Care Compare regulatory data is reliant on inspection results from 2019 and early 2020 due to the suspension of annual recertification surveys in 2020 and part of 2021 in response to safety concerns related to the global COVID-19 pandemic. Only one of the RHF SNFs, Bixby Knolls, has had a recertification survey in the past 10 months.

Points Assigned to Deficiencies

To assign a star rating between 1 and 5 stars under the regulatory performance domain on Care Compare, CMS calculates each SNF's health inspection score based on points assigned to deficiencies identified in each SNF's three most recent 12-month time periods referred to as cycles. The most recent year, or cycle 1, of deficiency findings is weighted more heavily than the earlier years (cycles 2 and 3). The lower the number of deficiency points, the higher a SNF will be ranked among the other SNFs in the state, and they will receive a higher star rating in the regulatory domain on Care Compare.

² Ibid.

Points are assigned to individual health deficiencies according to their scope and severity. The more serious deficiencies and the widespread deficiencies affecting the most residents receive more points, with additional points assigned for substandard quality of care.³ See table 3 below.

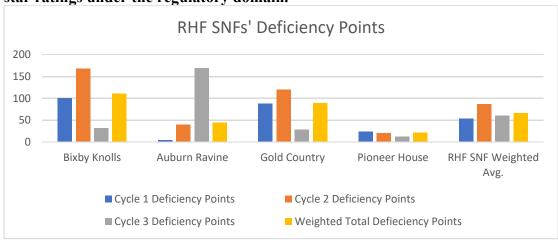
Table 3. CMS assignment of points within the deficiency scope and severity scale.⁴

Severity	Scope				
Severity	Isolated	Pattern	Widespread		
Immediate jeopardy to resident health or safety	J 50 points* (75 points)	K 100 points* (125 points)	L 150 points* (175 points)		
Actual harm that is not immediate jeopardy	G 20 points	H 35 points (40 points)	I 45 points (50 points)		
No actual harm with potential for more than minimal harm that is not immediate jeopardy	D 4 points	E 8 points	F 16 points (20 points)		
No actual harm with potential for minimal harm	A 0 point	B 0 points	C 0 points		

Note: Figures in parentheses indicate points for deficiencies that are for substandard quality of care.

The RHF SNFs' deficiency point totals reflect slightly above-average performance and are consistent with their slightly above-average performance on the CMS Care Compare star rating (3.5 stars out of 5 stars). See figure 1 below.

Figure 1. RHF SNFs' inspection deficiency points for calculating their CMS Care Compare star ratings under the regulatory domain.⁵



³ Nursing Home Compare Five-Star Quality Rating System Technical User's Guide, July 2022 https://www.cms.gov/medicare/provider-enrollment-and-certification/certificationandcomplianc/downloads/usersguide.pdf (accessed November 2, 2022.) ⁴ *Ihid.*

⁵ Nursing Home Database Skilled Nursing Facility Search https://www.nursinghomedatabase.com/find/skilled-nursing (accessed November 2, 2022.)

Over the past three years, the RHF SNFs' deficiency point totals have been declining, reflecting improved regulatory performance. According to the current Care Compare Five Star rating cut points for inspection deficiencies in the state of California, the RHF SNFs' cycle 1 average weighted deficiency points (54 points) places them at 4 stars in the regulatory performance domain of Care Compare. See table 4 below.

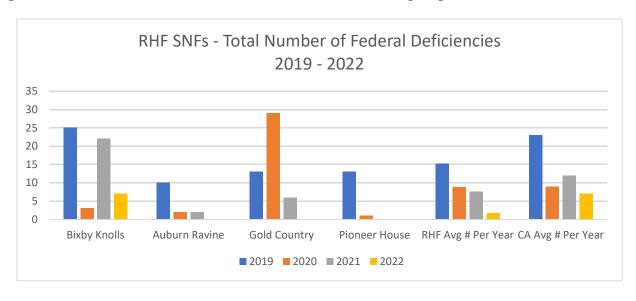
Table 4. CMS Care Compare five-star rating cut points for the State of California.⁶

CA Star Cut Points for Health Inspection Scores	1 Star	2 Star	3 Star	4 Star	5 Star
	>138 points	>86 points	>58 points	> 30 points	< 30 points

Number of Deficiencies

According to figure 2 below, the RHF SNFs have received fewer deficiencies from 2019 to 2022, but three of the four SNFs are waiting for their recertification surveys. As was previously noted, only RHF's Bixby Knolls has had a recertification inspection in 2022. Bixby Knolls received 7 deficiencies, which was a significant improvement from its last recertification survey in 2021, for which it received 22 deficiencies. In 2019, RHF SNFs received on average 33% fewer deficiencies than other SNFs in California. See figure 2 below.

Figure 2. RHF SNFs' number of deficiencies identified during inspections.⁷



⁶ Nursing Home Care Compare Technical Users Guide. State-Level Health Inspection Cut Point Table, June 2022 https://www.cms.gov/medicare/provider-enrollment-and-certification/certificationandcomplianc/downloads/cutpointstable.pdf (accessed November 21, 2022.)

⁷ Nursing Home Database Skilled Nursing Facility Search https://www.nursinghomedatabase.com/find/skilled-nursing

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Immediate Jeopardy and Actual Harm Deficiencies

Inspectors rate identified federal deficiencies during annual inspections of SNFs, and inspections triggered by complaints and facility reported incidents (FRIs), according to the federal deficiency scope and severity scale in table 5 below.

Table 5. Federal Deficiency Scope and Severity Scale⁸

LEVEL 4	Immediate Jeopardy To Resident Health Or Safety	ISOLATED J	PATTERN K	WIDESPREAD L
LEVEL 3	Actual Harm That Is Not Immediate Jeopardy	ISOLATED G	PATTERN H	WIDESPREAD
LEVEL 2	No Actual Harm With Potential For More Than Minimal Harm That Is Not Immediate Jeopardy	ISOLATED D	PATTERN E	WIDESPREAD F
LEVEL 1	No Actual Harm With Potential For Minimal Harm	ISOLATED A	PATTERN B	WIDESPREAD C

The most severe and potentially life-threatening deficiencies are assessed at level 3 deficiencies (actual harm) or level 4 deficiencies (immediate jeopardy). Level 3 deficiencies are noncompliance that results in a negative outcome that has compromised a resident's ability to maintain and/or reach his/her highest practicable physical, mental, and psychosocial well-being. Level 4 deficiencies are immediate jeopardy, a situation in which immediate corrective action is necessary because the facility's noncompliance with one or more federal requirements has caused, or is likely to cause, serious injury, harm, impairment, or death to a resident.

The RHF SNFs are rarely cited for level 3 or level 4 deficiencies by inspectors. Since 2019, the four RHF SNFs have received a total of two immediate jeopardy and actual harm level deficiencies. See table 6 below.

⁸ https://www.cdph.ca.gov/Programs/CHCQ/LCP/CalHealthFind/Pages/ConsumerGuide.aspx (accessed November 2, 2022.)

Table 6. F	RHF SNFs'	' Number o	of Immediate	Jeopardy	and Actual	Harm Deficiencies.
				1 0		

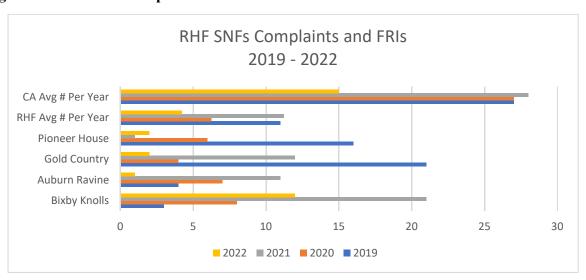
IJ and Actual Harm	Bixby	Auburn	Gold	Pioneer
Deficiencies	Knolls	Ravine	Country	House
2019	0	0	0	0
2020	0	0	0	0
2021	2	0	0	0
2022	0	0	0	0

Complaints and Facility Reported Incidents (FRIs)

The number of complaints and FRIs received and investigated by CDPH is an important indicator of quality of care and of quality of life in SNFs. CDPH inspections triggered by complaints and FRIs can, and do, result in deficiencies. A complaint is a report received by CDPH from anyone concerned about the health and welfare of the residents and the staff. An FRI is any report made to CDPH by any representative of the health care facility. Facilities are required to report incidents and unusual occurrences, which mayy include abuse, epidemics, outbreaks, disasters, fires, disruption of services, major accidents, or unusual occurrences that threaten the health and safety of patients, residents, clients, staff, or visitors.

Over the past four years, the RHF SNFs have performed better than other SNFs in California when examining their numbers of complaints and FRIs. From 2019 to 2022, the RHF SNFs' average number of complaints and FRIs per SNF was roughly half of the state average for all California SNFs. See figure 3 below.

Figure 3. RHF SNFs complaints and FRIs.9



⁹ CDPH data for each facility can be found at https://www.cdph.ca.gov/programs/chcq/lcp/calhealthfind/Pages/Home.aspx. (accessed November 2, 2022.)

Staff Stability

As per the California Code of Regulations, this Healthcare Impact Statement evaluates the effect of the sale on staffing and the retention of employees, which in turn affect continuity of care. Measures of staff stability (staff turnover, staff retention) are mutually reinforcing measures and are important proxies for clinical outcomes of care. The association between staff stability and quality outcomes has been well documented. CMS recently explored the relationship between staff turnover and quality and their analysis reflects that as the average staff turnover rate decreases in a SNF, the overall Care Compare star rating increases, suggesting that lower staff turnover is associated with higher overall quality.

Staff stability and quality are linked because SNF staff deliver better care when they know their residents well, and getting to know the residents well only happens over time when staff can care for the same group of residents each day. Knowing the residents well means knowing how to safely transfer a resident to and from bed or chair, and being able to recognize changes in the resident's skin from day to day. Knowing the residents well also means knowing what they prefer to eat and which social events they prefer to attend, which contributes to quality of life.

The SNFs with lower direct care staff turnover rates and higher staff retention rates have a big clinical advantage over other SNFs. The more staff that know the residents well, the more staff with the knowledge to identify a resident's change in condition sooner. Early identification of a change in a resident enables the nursing staff to implement interventions timely to avoid a fall, a pressure sore, or a sudden drop in weight. Therefore, nursing staff turnover rates are one measure of staff stability and an important predictor of quality.

For more than ten years, CMS has been posting information on facility staffing measures on the Care Compare website. Over the last several years, CMS has made improvements to the information reported. Most recently, in July 2022, CMS began posting weekend staffing and staff turnover measures on Care Compare.

In addition to existing measures of registered nurse (RN) and total nurse hours per resident per day (PPD), the new staffing star rating methodology is now more robust and includes the following measures to compute a SNF's star rating under the staffing domain in Care Compare:

• Total nurse (RN, licensed practical nurses, and nurse aids) staffing hours PPD on weekends

¹⁰ Cal. Code Regs., tit. 11, § 999.5, subd. (e)(6)(E).

¹¹ Collier and Harrington. Staffing Characteristics, Turnover Rates, and Quality of Resident Care in Nursing Facilities. Research in Gerontological Nursing. July 2008. (available at https://pubmed.ncbi.nlm.nih.gov/20077960/).

¹² Bostick, Rantz, Flesner, Riggs. Systematic Review of Studies of Staffing and Quality in Nursing Homes. JAMDA. April 2006. (available at https://pubmed.ncbi.nlm.nih.gov/16843237/.)
¹³ CMS QSO-22-08-NH, January 2022 https://www.cms.gov/files/document/qso-22-08-nh.pdf (accessed November 21, 2022.)

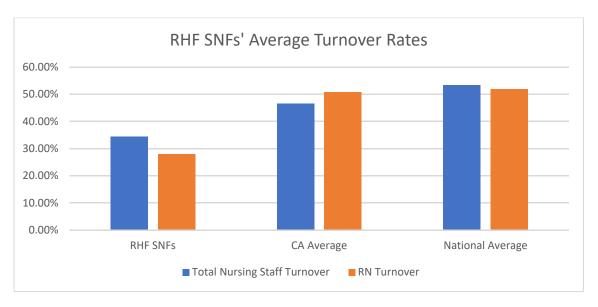
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- Total nurse staff turnover within a given year
- RN turnover within a given year
- Administrators' turnover within a given year

The RHF SNFs' performance under the staffing domain of Care Compare reflects widespread variability, with two SNFs rated as 4 stars and two SNFs rated as only 1 star. However, a closer look reflects that the RHF SNFs' measures of staff stability, and direct care staffing hours are better than most SNFs in California and across the United States.

The RHF SNFs' staff turnover rate reflects that they have a stable staff. The RHF SNFs' average overall nursing staff (34.4%) and RN (28%) turnover rates are low and less than state (overall 46.5%, RN 51%) and national averages (overall 53%, RN 52%). See figure 4 below.

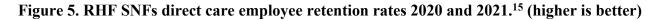
Figure 4. September 2022 Care Compare RHF SNFs' overall nursing staff and RN average turnover rates (lower is better).¹⁴

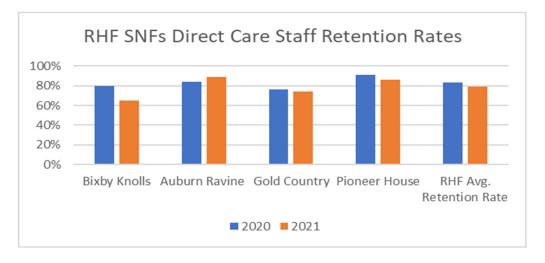


In addition to staff turnover rates, employee retention rates are an important and separate measure of staff stability in a SNF. The RHF SNFs have a consistently high average rate of direct care staff retention. During the pandemic, when most SNFs were struggling to retain their direct care staff, the RHF SNFs had a high average direct care staff retention rate of 81% in 2020 and 2021. See figure 5 below.

¹⁴ https://www.medicare.gov/care-compare/

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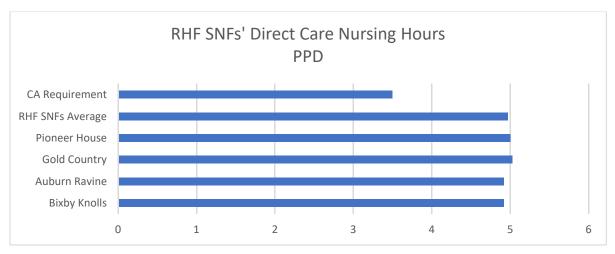




Direct Care Nursing Hours PPD

The RHF SNFs' staff turnover and retention rates are positively impacted by their high levels of direct care nursing hours PPD. According to the Medi-Cal cost reports, the RHF SNFs are consistently staffing well above the California state requirement of 3.50 hours PPD, averaging 4.98 hours PPD in 2020, and 4.95 hours PPD in 2021. See figure 6 below.

Figure 6. RHF SNFs' direct care nursing staffing hours PPD 2021.¹⁶



¹⁵ Medi-Cal cost reports 2020 and 2021, https://www.cms.gov/research-statistics-data-and-systemsdownloadable-public-use-filescost-reportscost-reports-fiscal/2020-0; https://www.cms.gov/httpswwwcmsgovresearch-statistics-data-and-systemsdownloadable-public-use-filescost-reportscost/2021-1(accessed November 2, 2022.)

¹⁶ Medi-Cal cost report 2021 https://www.cms.gov/httpswwwcmsgovresearch-statistics-data-and-systemsdownloadable-public-use-filescost-reportscost/2021-1

Staffing Agency Utilization

SNFs that struggle with high staff turnover rates and low staff retention rates may have to fill in the vacant shifts in their nursing schedule by contracting with staffing agencies that have nurses and certified nursing assistants available to work. These staffing agencies charge the SNFs at rates that are 30-50% higher than what a SNF would typically pay its own staff.

Contracted staffing agency nurses and nursing assistants often struggle to deliver quality care and service at the SNFs where they have been assigned to work due to their unfamiliarity with the SNF residents and the SNF's unique policies and procedures.

During the pandemic, staffing agency use soared as many SNFs struggled with staff stability. However, RHF SNFs utilized no contracted nursing staff in 2020. In 2021, only two of the four SNFs, Auburn Ravine and Gold Country, utilized staffing agencies. See figure 7 below.

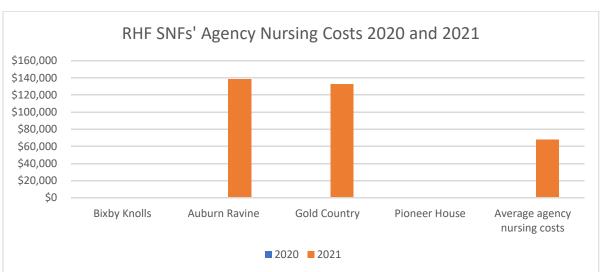


Figure 7. RHF SNFs' staffing agency nursing costs 2020 and 2021.¹⁷

The RHF SNFs have the combination of low staff turnover rates, high staff retention rates, high staffing levels, and minimal use of nurses from staffing agencies that creates the organizational conditions for their staff to deliver high quality, person-centered care. As a result, the RHF SNFs have good clinical outcomes of care, which is reflected in the quality measures on Care Compare.

¹⁷ Medi-Cal cost reports 2020 and 2021, https://www.cms.gov/research-statistics-data-and-systemsdownloadable-public-use-filescost-reportscost-reports-fiscal/2020-0; https://www.cms.gov/httpswwwcmsgovresearch-statistics-data-and-systemsdownloadable-public-use-filescost-reportscost/2021-1

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Quality Measures

Employment of stable and consistent direct care staff who know the residents well, and who have enough time to meet the needs of each resident in their assignment, results in more support provided to the residents when they are eating, and more timely assistance with toileting and repositioning. Moreover, under these conditions, positive caring relationships can and do develop between and among the caregivers and the residents.

RHF SNFs' impressive measures of staff stability and their above-average direct care nursing hours result in fewer residents who develop pressure ulcers or lose too much weight. These two quality measures, the percentage of long-stay high-risk residents with pressure ulcers and the percentage of long-stay residents who lose too much weight, are highly sensitive to and impacted by the number of direct care staff, and the stability and consistency of the direct care staff, on duty each day.¹⁸

Care Compare definitions of the two quality measures¹⁹

Percentage of Long-Stay, High-Risk Residents with Pressure Ulcers

This measure captures the percentage of long-stay, high-risk residents with Stage II-IV or unstageable pressure ulcers. Residents at high risk for pressure ulcers are those who are impaired in bed mobility or transfer, who are comatose, or who suffer from malnutrition.

Percentage of Long-Stay Residents who Lose Too much Weight

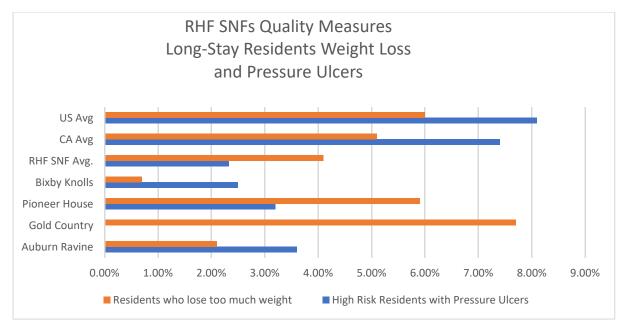
This measure reports the percentage of long-stay residents who had a weight loss of 5% or more in the last month or 10% or more in the last 6 months that were not on a physician prescribed weight loss regimen during the target period.

On September 25, 2022, Care Compare reflects that the RHF SNFs are performing very well on these two key quality measures. Care Compare data reflects that one of the four RHF SNFs, Gold Country, has no long-stay high-risk residents with pressure sores. The RHF SNFs' average rate of pressure ulcers is 2.33%, which is significantly lower than the rate among all California SNFs (7.4%) and SNFs nationwide (8.1%). Also, a minimal number of residents at the RHF SNFs lose too much weight (4.10%) compared to SNFs in California (5.10%) and nationwide (6.00%). See figure 8 below.

 ¹⁸ Bostick, Rantz, Flesner, Riggs. Systematic Review of Studies of Staffing and Quality in Nursing Homes. JAMDA. April 2006. (available at https://pubmed.ncbi.nlm.nih.gov/16843237/)
 ¹⁹ Nursing Home Care Compare Technical Users Guide, July 2022
 https://www.cms.gov/medicare/provider-enrollment-and-certification/certificationandcomplianc/downloads/cutpointstable.pdf (accessed October 21, 2022.)

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Figure 8. RHF SNFs CMS Care Compare – percentage of long-stay residents who lost too much weight and residents with pressure ulcers September 2022 (lower is better).²⁰



Buyer-Proposed Managers/Operators SNF Performance

Cypress Healthcare Group, LLC

Cypress Healthcare Group, LLC, the Buyer-proposed manager of three of the four RHF SNFs in the transaction, is a relatively new operator. It currently leases or manages six SNFs in California. Cypress' involvement in its six SNFs began in April 2019 (three SNFs) and October 2019 (three SNFs). See table 7 below.

Table 7. Cypress Healthcare Group LLC Operates these six SNFs in California.

Cypress SNF Name	Address	# SNF Beds	Cypress Since
Sherwood Healthcare Center	4700 Elvas Ave,	62	10/1/19
	Sacramento		
Saylor Lane Healthcare Center	3500 Folsom Blvd.,	42	10/1/19
	Sacramento		
Oak Ridge Healthcare Center	310 Oak Ridge Dr.,	67	4/1/19
	Roseville		
College Oak Nursing and	4635 College Oak Dr.,	120	4/1/19
Rehabilitation Center	Sacramento		
Asbury Park Nursing and	2257 Fair Oaks Blvd.,	139	10/1/19
Rehabilitation Center	Sacramento		
Woodside Healthcare Center	2240 Northrop Ave.,	59	4/1/19
	Sacramento		

²⁰ https://www.medicare.gov/care-compare/

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For purposes of this Healthcare Impact Statement, Cypress SNF data from medical cost reports and regulatory databases was excluded prior to its involvement except for Care Compare star ratings, which include data from 2019.

Care Compare Five Star Ratings

The current Nursing Home Care Compare star ratings of the six Cypress SNFs reflect an above-average overall performance compared to other SNFs in California. The six Cypress SNFs' average overall star rating on Care Compare is 4.2 stars out of 5 stars. See table 8 below.

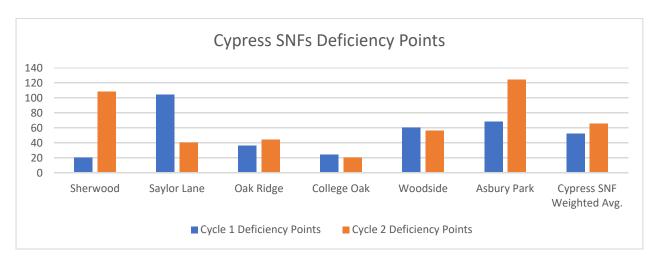
Table 8. Cypress SNFs' Care Compare five-star ratings September 2022.²¹

Current Five Star Ratings Cypress SNFs	Sherwood	Saylor Lane Saylor Lane	Oak Ridge	▼ College Oak	▼ Woodside	▲ Asbury	/ Park 🔀 Cypress Avg	_
Overall		4	3	5	5	4	4	4.2
Regulatory		4	3	4	5	3	3	3.7
Quality Measures		4	5	5	5	5	5	4.8
Staffing		2	1	4	4	4	3	3

Points Assigned to Deficiencies

Cypress SNFs, in alignment with their Care Compare star ratings, are performing better than average over the two most recent survey cycles when Cypress had full operational control of the six SNFs. In addition, each Cypress SNF has received an annual recertification survey in the past 12 months (cycle 1). In this timeframe, the average number of deficiency points per Cypress SNF is 52 points and an improvement over the previous 12-month period. See figure 9 below.

Figure 9. Cypress SNFs inspection deficiency points for calculating their CMS Care Compare star rating under the regulatory domain.²²



²¹ https://www.medicare.gov/care-compare/

²² Nursing Home Database Skilled Nursing Facility Search https://www.nursinghomedatabase.com/find/skilled-nursing

Number of Deficiencies

The Cypress SNFs accumulated few deficiencies in 2020, which may be in part due to CDPH suspending recertification surveys during the first year of the COVID-19 pandemic. In 2021, Cypress Healthcare's first year of operational control, the six Cypress SNFs averaged just over 14 deficiencies, each of which was in line with the state average per SNF in California. In 2022, their average number of deficiencies declined to seven deficiencies, however one Cypress SNF, Saylor Lane, has been assessed 37 deficiencies in 2022. See figure 10 below.

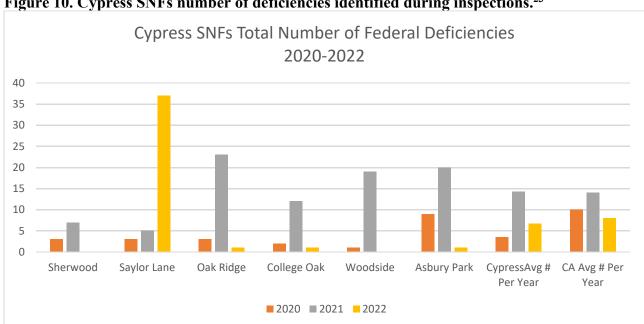


Figure 10. Cypress SNFs number of deficiencies identified during inspections.²³

Immediate Jeopardy and Actual Harm Deficiencies

Cypress SNFs have received few serious level 3 and level 4 deficiencies. Since Cypress took operational control of its six SNFs, it has received one deficiency rated as actual harm and no immediate jeopardy deficiencies. Woodside Healthcare received an actual harm deficiency in October of 2019, approximately six months after Cypress began operating the SNF.

Complaints and Facility Reported Incidents

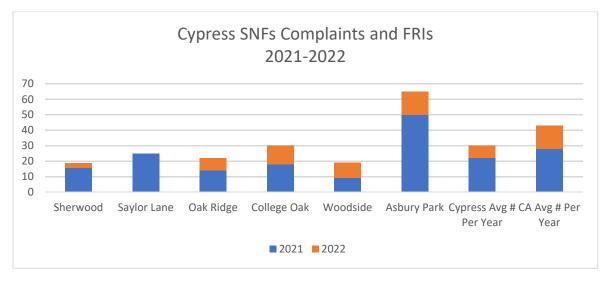
Over the past two years, the Cypress SNFs have had a lower number of complaints and FRIs than other SNFs on average in California. Four of the six Cypress SNFs had a number of complaints and FRIs that is less than the state average for SNFs. From 2021 to 2022, the average

 $^{^{23}\} https://www.cdph.ca.gov/programs/chcq/lcp/calhealthfind/Pages/Home.aspx.\ (accessed to be a constant of the constant$ November 2, 2022.)

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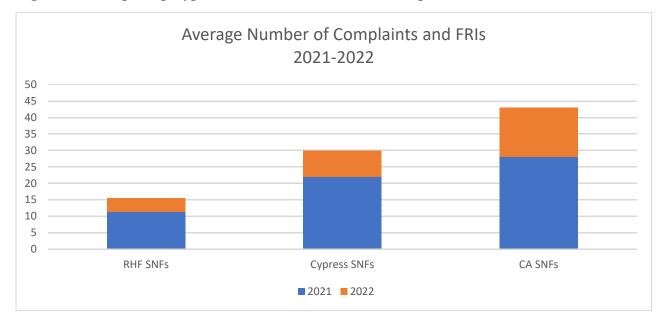
number of FRIs and complaints at Cypress SNFs has declined and is now less than the California state average for all SNFs. See figure 11 below.

Figure 11. Cypress SNFs' complaints and FRIs.²⁴



However, in 2021 and 2022, the Cypress SNFs' average number of complaints and FRIs (30) are almost 50% higher than the average number of complaints and FRIs at the RHF SNFs (15). See figure 12 below.

Figure 12. Comparing Cypress SNFs' and RHF SNFs' complaints and FRIs.²⁵



²⁴ *Ibid*.

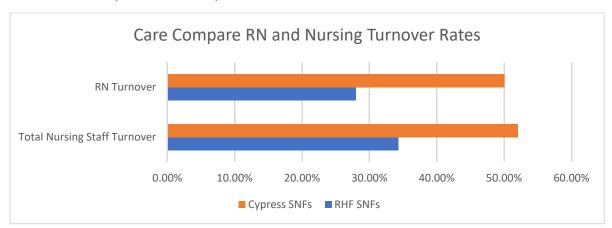
²⁵ *Ibid*.

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Staff Stability

On September 25, 2022, the Care Compare staffing domain reflected a significant variance between the RHF SNFs and the Cypress SNFs. The Cypress SNFs' average total nursing staff turnover rate (52%) is higher than the average of the RHF SNFs (34.3%). In addition, the Cypress SNFs' average RN turnover rate is 50% while the RHF SNFs' is 28%. See figure 13 below.

Figure 13. Comparing Cypress SNFs' and RHF SNFs' average RN and total nursing staff turnover rates (lower is better).²⁶



High staff turnover rates in SNFs are triggered by many different factors. Numerous studies have shown that high turnover of direct care staff in SNFs is related to poor pay, lack of benefits, high workloads, inadequate training, poor management, and lack of career advancement.²⁷ For some SNFs, the pandemic exposed these underlying issues, which led to a high number of staff departures in 2020 and 2021.

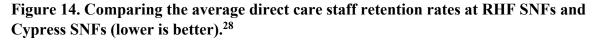
The RHF SNFs also outperform the Cypress SNFs when comparing their direct care staff retention rates. From 2020 to 2021, the Cypress SNFs saw their average direct care staff retention rate decline by 29% to 54% while the RHF SNFs maintained a high average direct care staff retention rate of 81% in 2020 and 2021. See figure 14 below.

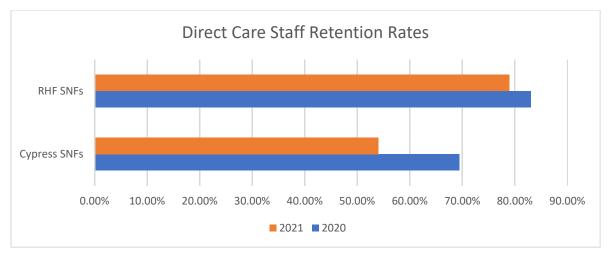
²⁶ https://www.medicare.gov/care-compare/

²⁷ Bryant, Olaiya, Ayanna. Employee Turnover in the Long-Term Care Industry. Walden dissertations and doctoral studies. 2017,

https://scholarworks.waldenu.edu/cgi/viewcontent.cgi?article=4492&context=dissertations (accessed October 22, 2022.)

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Direct Care Nursing Hours

The Cypress SNFs consistently staff lower than the RHF SNFs. The 2021 Medi-Cal cost reports reflect that the Cypress SNFs staffed at an average of 3.81 hours PPD while the RHF SNFs' average was significantly higher at 4.95 hours PPD.

Cypress is staffing its SNFs above the CDPH requirement (3.81 vs 3.50 PPD). But at the Cypress SNFs, their nursing staff is likely clustered with lower resident-to-staff ratios in the nursing units where their short stay, more clinically acute residents are undergoing rehabilitation.

Medi-Cal cost reports from 2020 and 2021 reflect that the Cypress SNFs have a much higher percentage of short-stay Medicare and managed care (likely Kaiser) residents and have many more new admissions per SNF per year than the RHF SNFs. In addition, only 57% of their residents are covered by Medi-Cal. See table 9 below.

Table 9. Percent of Medicare and managed care residents, and the average number of new admissions at Cypress SNFs and RHF SNFs.²⁹

Medi-Cal Cost Reports 2021	Cypress SNFs	RHF SNFs
Percent of Medicare Residents	16%	13%
Percent of Managed Care Residents	18.3%	1%
Average Number of New Admissions per SNF	398	44

²⁹ *Ibid*.

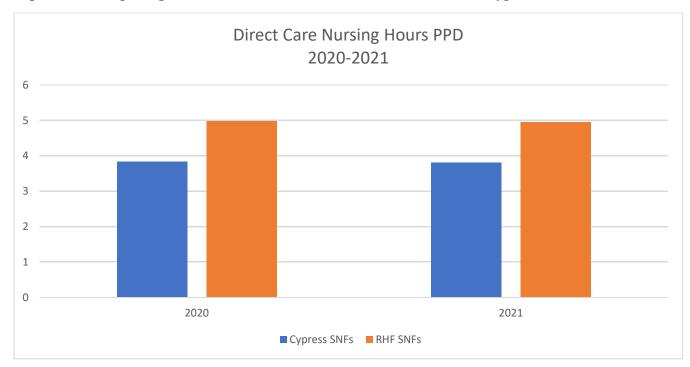
²⁸ Medi-Cal Cost reports 2020 and 2021, https://www.cms.gov/research-statistics-data-andsystemsdownloadable-public-use-filescost-reportscost-reports-fiscal/2020-0; https://www.cms.gov/httpswwwcmsgovresearch-statistics-data-and-systemsdownloadablepublic-use-filescost-reportscost/2021-1

The RHF SNFs' average percentage of Medicare residents is skewed by just one of the four SNFs, Gold Country, which experienced an increase in the percentage of Medicare residents from 19% in 2020 to 39% in 2021. Historically, the four RHF SNFs had an average of just 7% Medicare residents and 70% Medi-Cal residents.

The Cypress SNFs' percentage of managed care residents increased by almost 25% from 2020 to 2021. Managed care residents usually have shorter lengths of stay than Medicare residents. Therefore, the number of new admissions increased significantly at each of the six Cypress SNFs. At one of their SNFs, Asbury Park in Sacramento, almost a third of all their residents (32%) are covered by managed care plans and their nursing staff admitted 606 new residents in 2021 alone.

On average, the RHF SNFs admit almost four new residents per month and the Cypress SNFs average more than one new admission every day. For every newly admitted resident there is another being discharged and therefore some of the nursing staff at the Cypress SNFs spend a considerable amount of their time admitting and discharging residents. In contrast, the nursing staff at the RHF SNFs spend very little of their time on admissions and discharges. The hours that nurses and CNAs spend admitting and discharging residents is embedded in the SNFs' direct care nursing hours PPD in figure 15 below.

Figure 15. Comparing direct care staff hours PPD at RHF SNFs and Cypress SNFs.³⁰



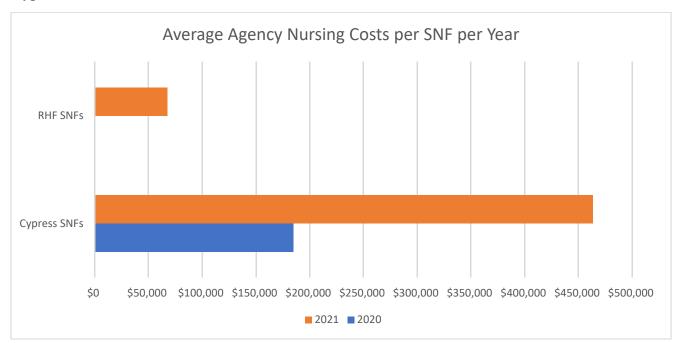
³⁰ *Ibid*.

Staffing Agency Utilization

High utilization of nurses and CNAs from staffing agencies is the byproduct of staff instability. The Cypress SNFs had to rely on a high number of contracted nurses from staffing agencies in 2020 and 2021. In fact, the Cypress SNFs spent on average close to \$200,000 on staffing agency nurses in 2020 and then saw their average more than double in 2021 to over \$450,000 per Cypress SNF. All of the Cypress SNFs utilized agencies in 2020 and 2021 and one of their SNFs, Asbury Park, spent over one million dollars (\$1,079,476) on contracted nurses from staffing agencies in 2021 alone.

Meanwhile, the RHF SNFs faced similar pandemic-related challenges, but the RHF SNFs maintained staff stability and did not contract for any nurses through staffing agencies in 2020. In 2021, the RHF SNFs spent just over \$67,000 per SNF. Only two of the four RHF SNFs utilized staffing agency nurses in 2021. See figure 16 below.

Figure 16. Comparing the average agency nursing costs per SNF per year – RHF SNFs and Cypress SNFs.³¹



Quality Measures

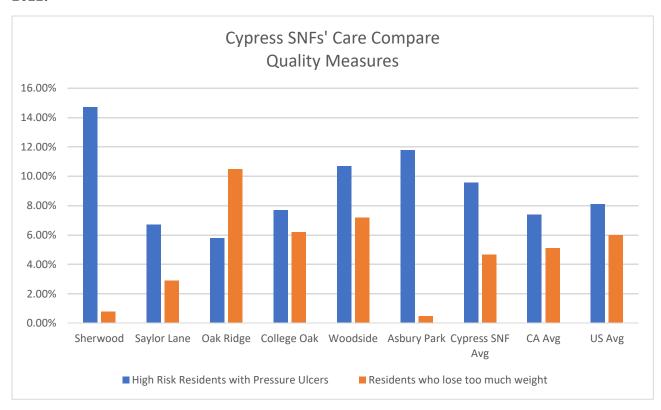
Cypress SNFs' direct care nursing hours, high staff turnover rates, low staff retention rates and high utilization of staffing agencies results in a high percentage of long-stay high-risk residents who develop pressure ulcers. The current average pressure ulcer rate at the Cypress SNFs among their long-stay high-risk residents is 9.57%, which is above both the California (7.4%) and the nationwide (8.1%) average among all SNFs. The percentage of residents who lose too much

³¹ *Ibid*.

weight is 4.68% at the Cypress SNFs, which is below both state (5.1%) and national averages (6%).

The Cypress SNFs' average number of 4.8 stars in the quality measures domain of Care Compare is well above average, but their outcomes on one these two quality measures reflect that their long-stay, high-risk residents are being negatively impacted by staffing instability and inconsistency. In addition, the average nursing hours of 3.81 PPD may be indicative that the staff at the Cypress SNFs may not have enough time to meet the needs of each of the residents in their assignments when the residents are eating or need assistance with toileting or repositioning. See figure 17 below.

Figure 17. Cypress SNFs' percentages of long-stay residents with pressure ulcers and long-stay residents who lose too much weight quality measures on Care Compare, September 2022.³²



The performance gap on long-stay high-risk residents with pressure ulcers between the RHFs SNFs and the Cypress SNFs is congruent with the gap in their direct care staffing hours, staff turnover, staff retention, and staffing agency utilization rates. The Cypress SNFs have an average pressure ulcer rate among their long-stay high-risk residents (9.57%) that is more than four times greater than the average among the RHF SNFs (2.33%).

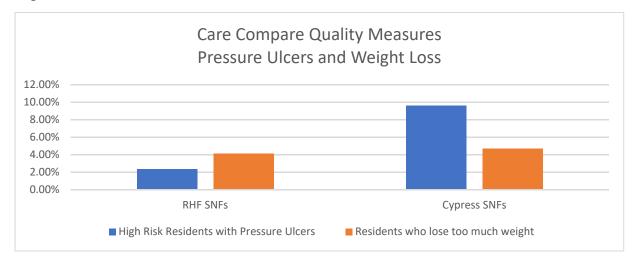
Regarding long-stay residents who lose too much weight, the gap between the two is narrow (4.10% at the RHF SNFs compared with 4.68% at the Cypress SNFs) and both organizations

³² https://www.medicare.gov/care-compare/

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have fewer residents losing too much weight than the average rates for SNFs in California and the United States. See figure 18 below.

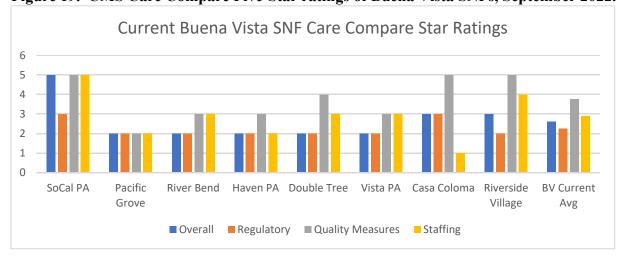
Figure 18. Comparing RHF SNFs and Cypress SNFs quality measures on Care Compare, September 2022.³³



Buena Vista Healthcare

Pacifica has proposed Buena Vista Healthcare (Buena Vista) as the operator of the SNF at Bixby Knolls. Buena Vista Healthcare currently operates eight SNFs in California. On September 23, 2022, the average performance of Buena Vista SNFs on Care Compare was below average with an overall average star rating of 2.6 stars out of a possible 5 stars. Five of the eight Buena Vista SNFs have an overall below average rating of only 2 out of 5 stars. See figure 19 below.

Figure 19. CMS Care Compare Five-Star ratings of Buena Vista SNFs, September 2022.³⁴



³³ Ihid.

³⁴ https://www.medicare.gov/care-compare/

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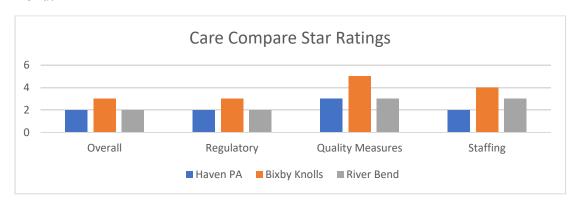
Six of the eight Buena Vista SNFs achieved only 2 stars in the regulatory performance domain of Care Compare. And, as noted within the Healthcare Impact Statement prepared by Christopher Cherney Regarding the Proposed Purchase of California-Nevada Methodist Homes by Pacifica Companies, LLC, Buena Vista SNFs have been repeatedly cited for serious immediate jeopardy and actual harm deficiencies from 2019-2021.³⁵ Mr. Cherney notes that during this timeframe, Buena Vista SNFs' rate of immediate jeopardy deficiencies was 6.4 times higher than other SNFs in California.³⁶ In addition, Mr. Cherney notes that from 2019-2021, the average number of deficiencies issued to Buena Vista SNFs doubled.³⁷

For the purposes of this Healthcare Impact Statement, two of Buena Vista's eight SNFs, Haven Post-Acute SNF (Haven) and River Bend Nursing Center (River Bend), were selected for analysis compared to the performance of Bixby Knolls. All three SNFs have a 99-bed capacity. Haven (formally Country Villa Hacienda Healthcare Center) is located on East Date Street in San Bernardino, California, and was acquired by Buena Vista in May 2021. River Bend has been operated by Buena Vista since 2019 and is located on Oakmont Way in West Sacramento, California. River Bend cares for more clinically complex residents than a typical SNF, as 44 of their 99 beds are licensed as a Medi-Cal Sub-Acute unit within the SNF. This should be taken under consideration when reviewing the data.

Care Compare Star Ratings

On September 23, 2022, the Care Compare star ratings reflect that Bixby Knolls is performing better than Haven and River Bend across all three of the Care Compare performance domains (regulatory, quality, and staffing), and has a higher overall star rating. See figure 20 below.

Figure 20. Comparing Care Compare star ratings of Bixby Knolls, Haven, and River Bend.³⁸



³⁵ Healthcare Impact Statement Regarding the Proposed Purchase of California-Nevada Methodist Homes by Pacifica Companies, LLC, prepared by Christopher Cherney for the Office of the Attorney General, California Department of Justice. August 2, 2022, page 19, https://oag.ca.gov/system/files/media/cnmh-impact-report.pdf (accessed November 2, 2022.). ³⁶ *Ibid*.

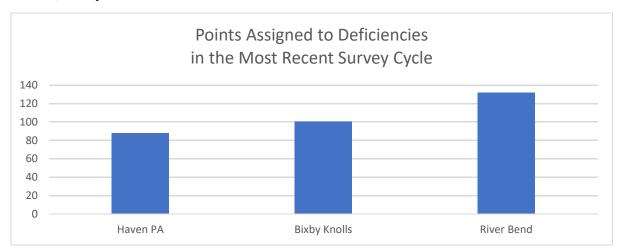
³⁷ *Id.* at p. 20.

³⁸ https://www.medicare.gov/care-compare/

Points Assigned to Deficiencies

Figure 21 below depicts data from the most recent survey cycle in consideration that Haven has only been under Buena Vista's operational control since May 2021. However, Haven has accumulated a very high number of deficiencies (45) since July 2021, which will likely result in a 1-star rating in the regulatory domain of Care Compare. On November 1, 2021, Haven received 10 deficiencies during its recertification survey. A follow-up inspection by federal surveyors found an additional 28 deficiencies on November 29, 2021. The additional 28 deficiencies that Haven received have not been factored in their deficiency point total in figure 21 below. River Bend's 132 deficiency points place it within only 6 deficiency points (or one deficiency) of a 1-star rating in the regulatory domain of Care Compare.

Figure 21. Comparing points assigned to deficiencies in the most recent survey cycle - Haven, Bixby Knolls and River Bend.⁴¹



Complaints and Facility Reported Incidents

In 2021 and 2022, Buena Vista's River Bend and Haven logged significantly more complaints and FRIs than Bixby Knolls. While all three are 99-bed SNFs, there is a large gap between Bixby Knoll's two-year total (33 complaints and FRIs) and Haven's (87 total), and an even bigger gap when compared to River Bend (163 total). River Bend has accumulated almost five times as many complaints and FRIs as Bixby Knolls over the past two years. 42 See figure 22 below.

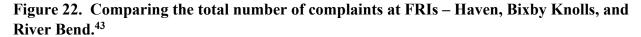
³⁹ https://www.cdph.ca.gov/programs/chcq/lcp/calhealthfind/Pages/Home.aspx

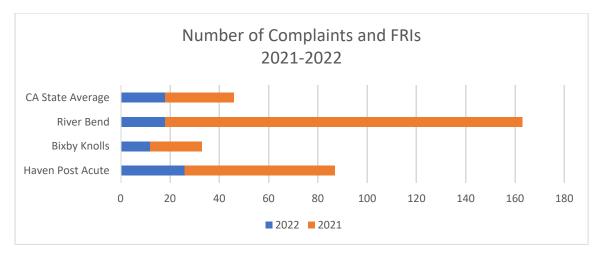
⁴⁰ http://www.NursingHomeDatabase.com

⁴¹ *Ibid*.

⁴² https://www.cdph.ca.gov/programs/chcq/lcp/calhealthfind/Pages/Home.aspx

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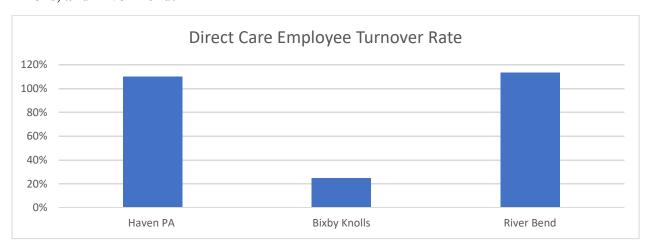




Staff Stability

In 2021, both Haven (110%) and River Bend (113.5%) experienced very high direct care staff turnover rates that exceeded 100% while Bixby Knolls had very little direct care staff turnover (25%).⁴⁴ See figure 24 below.

Figure 24. Comparing the direct care employee turnover rates in 2021 - Haven, Bixby Knolls, and River Bend.45



https://www.cdph.ca.gov/programs/chcq/lcp/calhealthfind/Pages/Home.aspx

⁴³ CDPH data for each facility can be found at -

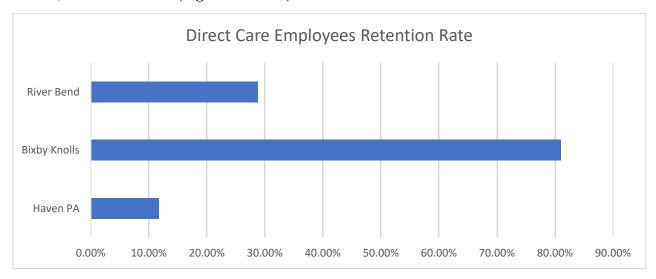
⁴⁴ 2021 Medi-Cal cost report, https://www.cms.gov/httpswwwcmsgovresearch-statistics-dataand-systemsdownloadable-public-use-filescost-reportscost/2021-1

⁴⁵ *Ibid*.

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In 2021, the direct care staff retention rates at these three SNFs tell a similar story. Bixby Knolls was able to retain more than 80% of their direct care staff while River Bend (28.8%) and Haven (11.7%) struggled to retain their direct care employees. 46 See figure 25 below.

Figure 25. Comparing the direct care employee retention rates in 2021 - Haven, Bixby Knolls, and River Bend (higher is better).



Direct Care Nursing Hours

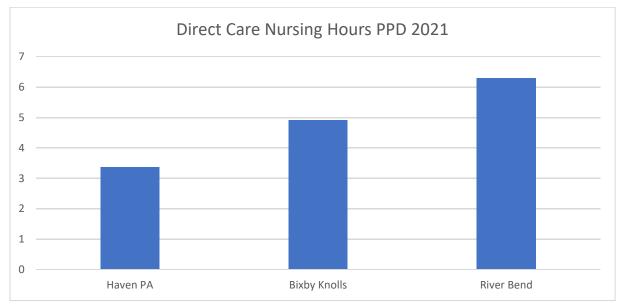
In 2021, Medi-Cal cost reports⁴⁷ reflect that River Bend Nursing Center had a higher number of direct care nursing hours PPD (6.30 PPD) compared to Bixby Knolls (4.92 PPD). Haven's direct care nursing hours (3.37 PPD) are below the state regulation (3.50 PPD); however, the 2021 Medi-Cal cost report that Buena Vista submitted has not been audited by the state. The high number of hours PPD at River Bend is expected, considering almost half of the SNF is a Medi-Cal Sub-Acute Unit where the residents require a lower resident-to-staff ratio. See figure 26 below.

⁴⁶ *Ibid*.

⁴⁷ *Ibid*.

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Staffing Agency Utilization

In 2021, both Haven and River Bend relied heavily on staffing agencies. Haven relied on the equivalent of over seven full-time nurses from staffing agencies and River Bend relied on the equivalent of six full-time nurses from staffing agencies. ⁴⁹ Their high use of contracted nursing staff from agencies is likely the result of their high staff turnover and low staff retention rates. See figure 27 below.

Figure 27. Comparing the utilization of nurses from staffing agencies in 2021 - Haven, Bixby Knolls, and River Bend.⁵⁰



⁴⁸ 2021 Medi-Cal cost report, https://www.cms.gov/httpswwwcmsgovresearch-statistics-dataand-systemsdownloadable-public-use-filescost-reportscost/2021-1

⁴⁹ *Ibid*.

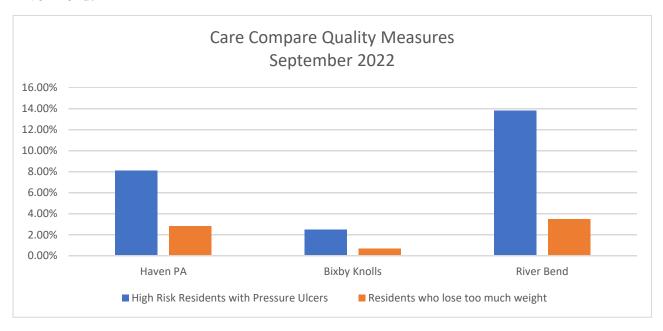
⁵⁰ Ibid.

Quality Measures

On September 27, 2022, Care Compare reflected that Bixby Knolls, with staff stability, has fewer long-stay high-risk residents with pressure ulcers or losing too much weight compared to Haven and River Bend. Only 2.5% of the long-stay high-risk residents at Bixby Knolls have pressure ulcers, which is significantly lower than Haven, River Bend, and state and national averages. The percentage of long-stay high-risk residents with pressure ulcers is 8.1% at Haven and 13.8% at River Bend.

Bixby Knolls also has fewer long-stay residents who lose too much weight (.7 %) compared to Haven (2.8%) and River Bend (3.5%). However, all three SNFs are performing well on this quality measure when compared to state (5.1%) and national averages (6%). See figure 28 below.

Figure 28. Comparing two Care Compare quality measures - Haven, Bixby Knolls, and River Bend.⁵¹



Changes at Haven since May 2021

In consideration of the potential healthcare impact of Buena Vista taking managerial control of Bixby Knolls, an analysis was conducted of what has transpired at Haven since Buena Vista began operating the SNF in May 2021.

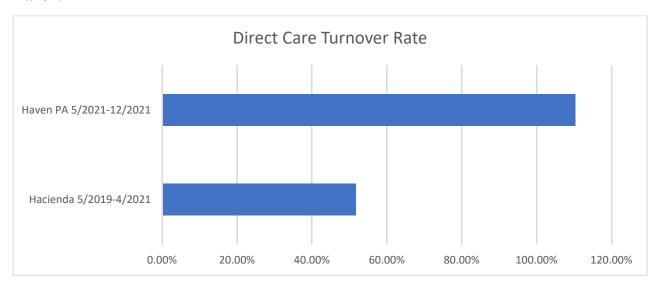
According to the 2019 and 2020 Medi-Cal cost reports, Country Villa Hacienda Healthcare Center (Hacienda Healthcare Center) (renamed Haven Post-Acute) had a relatively stable direct care staff with an average staff turnover rate of 48% combined and a 70% direct care staff

https://www.medicare.gov/care-compare/resources/nursing-home/quality-of-resident-care/(accessed November 2, 2022)

retention rate. In addition, Hacienda Healthcare Center utilized very few nurses from staffing agencies during this timeframe (\$21,868 total).

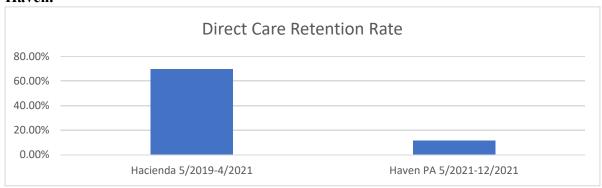
In May 2021, Buena Vista took operational control over Hacienda Healthcare Center and over the next eight months the direct care staff turnover rate more than doubled from 48% to over 110%. See figure 29 below.

Figure 29. Comparing Hacienda Healthcare Center's direct care staff turnover rate with Haven.⁵²



In addition, the direct care staff retention rate at Haven plummeted from 70% to less than 12%. See figure 30 below.

Figure 30. Comparing Hacienda Healthcare Center's direct care staff retention rate with Haven.⁵³

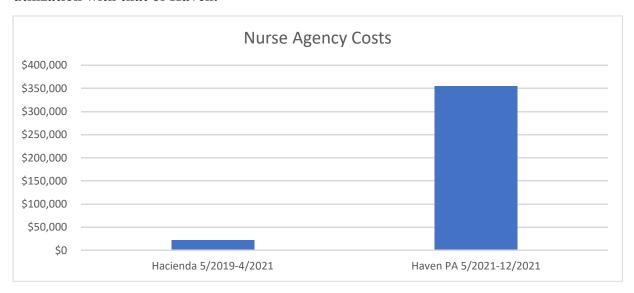


⁵² Medi-Cal cost reports 2020 and 2021, https://www.cms.gov/research-statistics-data-and-systemsdownloadable-public-use-filescost-reportscost-reports-fiscal/2020-0; https://www.cms.gov/httpswwwcmsgovresearch-statistics-data-and-systemsdownloadable-public-use-filescost-reportscost/2021-1 ⁵³ *Ibid*.

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The annual amount spent on nurses from staffing agencies increased at Haven from just under \$22,000 in the previous 12 months to over \$350,000 in the first eight months under Buena Vista's operational control. Note that during this timeframe, in the first year of the pandemic, many SNFs experienced staff instability and utilized contracted nurses from staffing agencies. However, it is important to note that Bixby Knolls was able to maintain staff stability and did not utilize staffing agencies in 2020 and in 2021. See figure 31 below.

Figure 31. Comparing Hacienda Healthcare Center's contracted staffing agency nurse utilization with that of Haven.⁵⁴



The increase in staff instability and inconsistency at Haven since May 2021 has negatively impacted both quality of care and regulatory compliance. Haven has received an extremely high total of 45 deficiencies since July 2021 and is waiting for its recertification survey in 2022.

D. RCFE Performance

RCFEs are licensed by the California Department of Social Services (CDSS). RCFEs are governed by regulations and must meet quality, care, and safety standards as defined by the state. They also require an annual inspection by the CDSS and the local Fire Inspector.

An RCFE provides care and supervision to its residents, including assistance with activities of daily living (ADLs) and medication management. RCFEs are designed to promote independence and self-direction to the greatest extent possible in a residential setting. RCFEs offer some or all of the following ancillary services:

- Consistent monitoring of the resident's mental and physical state
- Assistance with ADLs
- Regular, healthy meals and snacks with diet modifications
- Recreational activities and social engagement

⁵⁴ *Ibid*.

- Transportation and outings
- Medication management

Outside agencies such as those providing home health or hospice services may provide licensed medical services within their scope of practice to residents at the facility.

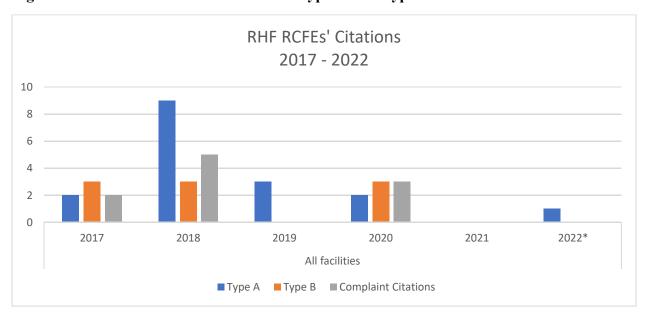
Comparatively, SNFs provide 24/7 skilled medical services. This includes more specialized care that can only be provided by qualified, credentialed health care workers. SNFs are healthcare/medical facilities as opposed to RCFEs, a housing option that includes some health services.

RHF RCFEs' Performance

During inspections of RCFEs, CDSS surveyors (or Licensing Program Administrators) determine if the RCFE has been deficient in complying with any section of Title 22 or the Health and Safety Code. If yes, they determine what type of citation to issue, either A or B, based on the nature of the issue. Type A citations pose an immediate health and safety risk to residents in care and type B citations pose a potential threat to the health and safety of residents in care.

Since 2019, the RHF RCFEs have received few Type A or Type B citations. Their results may be explained by the suspension of inspections during the height of the pandemic. In 2018, the total number of Type A citations spiked when one of their RCFEs, Gold Country, received six Type A and two Type B citations, which skewed the overall average of the four RHF RCFEs.⁵⁵ See figure 32 below.





⁵⁵ Community Care Licensing, http://www.CDSS.ca.gov

⁵⁶ *Ibid*.

The citation rate per 10,000 resident days is an effective way to compare the performance of RCFEs to other RCFEs that have different resident occupancy rates. Figure 33 below displays the citation rates per 10,000 bed days for the RHF RCFEs from 2017 to 2022. Although two of the four RHF RCFEs have performed better than the average citation rate for all California

the four RHF RCFEs have performed better than the average citation rate for all California RCFEs, the combined average citation rate for all four of the RHF RCFEs (.89) is higher than the citation rate for all RCFEs in the state (.27). Again, the RHF RCFEs citation rate was driven higher by just one of their RCFEs in 2018. See figure 33 below.

RHF RCFEs Citation Rates
2017-2022

4
3.5
3
2.5
2
1.5
1
0.5
0
Bixby Knolls Auburn Ravine Terrace Gold Country Pioneer House RHF RCFEs Avg. All CA RCFEs

Figure 33. RHF RCFE citation rates per 10,000 resident days 2017-2022.

Buyer-Proposed Managers/Operators RCFE Performance

Cypress Healthcare Group, LLC

Cypress, as discussed above, operates six SNFs in California. It has formed two new wholly owned subsidiaries to operate the RHF RCFE at Auburn Ravine (Glockson, LLC) and the RHF RCFE at Gold Country (Del Oro, LLC). Cypress and its subsidiaries do not have a history of managing RCFEs in California that can be analyzed for this Healthcare Impact Statement.

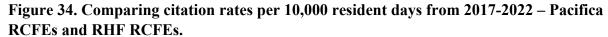
Pacifica Companies, LLC

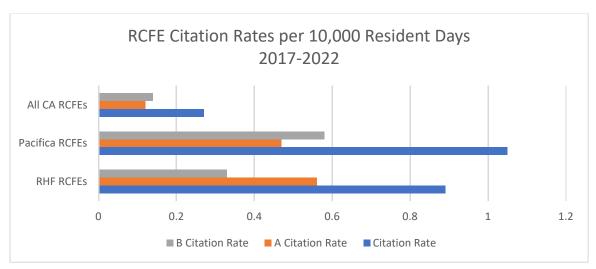
Pacifica was founded in 1978 and is a privately owned real estate firm headquartered in San Diego, California. CDSS data reflects that Pacifica operates 32 RCFEs in California. According to the notice of sale, California Senior Living Management, LLC, is a new LLC formed by and affiliated with Pacifica, and is the proposed operator of the RCFEs at Bixby Knolls and Pioneer House.

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The recently posted Healthcare Impact Statement prepared by Christopher Cherney regarding the proposed purchase of California-Nevada Methodist Homes by Pacifica,⁵⁷ includes a thorough analysis of the regulatory performance of the 32 RCFEs operated by Pacifica. Within the Healthcare Impact Statement, Mr. Cherney notes that from 2017 to May 31, 2022, Pacifica-operated RCFEs had an average rate of 1.05 citations per 10,000 resident days, which is 3.9 times higher than the average citation rate for all RCFEs in California. In addition, 66% of the Pacifica-operated RCFEs had a citation rate that was higher than average for all RCFEs in the state.⁵⁸ Finally, Mr. Cherney notes that both the number of citations and the number of citations triggered by complaints has been trending up at the Pacifica-operated RCFEs.⁵⁹

Since 2017, Pacifica RCFEs (1.05) and RHF RCFEs (.89) have experienced citation rates that were significantly higher than the average citation rate of all California RCFEs (.27). However, the RHF RCFEs citation rate is trending down while the Pacifica RCFEs citation rate is trending up. See figure 34 below.





Many RCFE residents can advocate on their own behalves. Therefore, the percentage of citations triggered by complaints is an important proxy for resident satisfaction with the quality of the services being delivered at each RCFE. Since 2017, only 26% of the citations at the RHF RCFEs have been triggered by complaints, and there were no citations triggered by complaints in three of the last four years. At the Pacifica-operated RCFEs, 54% of all of their citations have been triggered by complaints since 2017. See figure 35 below.

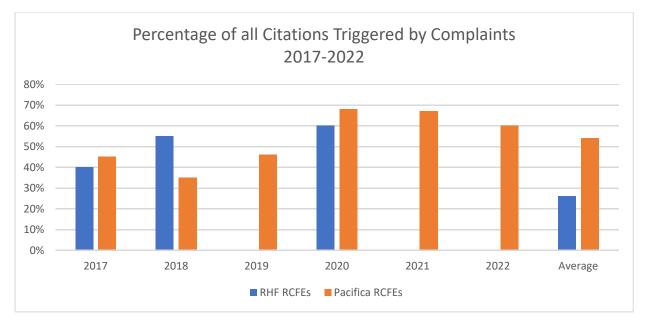
⁵⁷ https://www.medicare.gov/care-compare/

⁵⁸ Healthcare Impact Statement Regarding the Proposed Purchase of California-Nevada Methodist Homes by Pacifica Companies, LLC, prepared by Christopher Cherney for the Office of the Attorney General, California Department of Justice. August 2, 2022, page 8. https://oag.ca.gov/system/files/media/cnmh-impact-report.pdf

⁵⁹ *Id*. at p. 11.

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Figure 35. Comparing the percentage of citations triggered by complaints 2017-2022 – Pacifica RCFEs and RHF RCFEs.60



E. Recommendations Related to Operations

The recommendations to the Office of the Attorney General are made within the context of:

- California Code of Corporations, sections 5917 & 5917.5, and California Code of Regulations, title 11, section 999.5, subdivision (e)(5)-(7).
- Pacifica's, Cypress', and Buena Vista's operational, regulatory, clinical, and financial performances between 2017-2022.
- Notice of the Sale of four Retirement Housing Foundation senior care communities submitted to the California Attorney General pursuant to California Code of Regulations, title 11, section 999.5, subdivision (a)(1)(A). The Asset Purchase and Sale Agreement (APSA) is dated December 30, 2021.

Recommendations to the Office of the Attorney General within this Healthcare Impact Statement are based on the following key findings across a broad range of SNF and RCFE performance measures.

Key Findings Regarding the SNFs

1. Over the past four years, the seller, RHF, has operated its SNFs in compliance with state and federal regulations. All four RHF SNFs have seen a decline in the number of deficiencies, and a decline in the number of deficiency points, since 2019. In addition, the RHF SNFs have received a collective total of two immediate jeopardy or actual harm deficiencies in this timeframe.

⁶⁰ Community Care Licensing, http://www.CDSS.ca.gov

- 2. Since 2019, the RHF SNFs' average number of complaints and FRIs is less than the average number of complaints and FRIs among all SNFs in California.
- 3. The RHF SNFs have stable and consistent staff. The RHF SNFs have a low average RN turnover rate (28%) and a low average total nursing staff turnover rate (34.4%). RHF SNFs also have a high direct care staff retention rate (81%).
- 4. RHF staffs its SNFs at high levels of direct care hours PPD compared to other SNFs. The RHF SNFs' average direct care staffing hours PPD (4.95) is well above the CDPH staffing requirement (3.50).
- 5. Stable staff, consistent staff, and high direct care staffing hours at the RHF SNFs result in a low utilization of contracted nursing staff from staffing agencies.
- 6. The RHF SNFs have excellent outcomes on two of the Care Compare Quality Measures that are highly sensitive to staff stability, consistency of the staff, and the number of direct care staff hours PPD. The RHF SNFs have very few long-stay high-risk residents with pressure ulcers (2.33%) compared to SNFs in California (7.40%) and in the United States (8.10%). Also, a minimal number of residents at the RHF SNFs lose too much weight (4.10%) compared to SNFs in California (5.10%) and the United States (6.00%).
- 7. There is a public interest in ensuring that the level of care provided to the residents at the RHF SNFs does not decline as a result of the sale to Pacifica.
- 8. Cypress is the Buyer-proposed operator of three of the four RHF SNFs in the transaction. Over the past three years, Cypress SNFs have been following state and federal regulations. Also, the Cypress SNFs have seen a slight decline in the average number of deficiencies, and in the average number of deficiency points, since 2020. In addition, since October 2019, the Cypress SNFs have received a total of one actual harm deficiency. Collectively, the Cypress SNFs are rated as above average (4.2 stars) on Care Compare.
- 9. In 2021 and 2022, the Cypress SNFs' average number of complaints and FRIs was lower than the average number of complaints and FRIs among all SNFs in California. However, during this timeframe, the RHF SNFs had an average rate of complaints and FRIs that was 50% lower than the average rate among the Cypress SNFs.
- 10. In 2020 and more so in 2021, Cypress SNFs had unstable staff and inconsistent staff. The Cypress SNFs' average direct care staff retention rate declined by 29% from 2020 to 2021 and is lower (54%) than the RHF SNFs' average direct care staff retention rate (81%). And, compared to the RHF SNFs, the Cypress SNFs' average nursing staff turnover rate is 34% higher.
- 11. In 2021, the Cypress SNFs' average direct care staffing hours PPD (3.81) is above the state requirement (3.50), yet well below the average direct care staffing hours per day at the RHF SNFs (4.9). In addition, the Cypress SNFs' direct care staff care for more clinically complex Medicare and managed care residents (34.3%) than the RHF SNFs (14%) and the Cypress SNFs' direct care staff spend significantly more time admitting new residents (398 average admissions

per SNF per year) than the direct care staff at the RHF SNFs (44 average admissions per SNF per

- 12. From 2020 to 2021, the Cypress SNFs' reliance on contracted nurses through staffing agencies more than doubled from under \$200,000 per SNF to over \$450,000 per SNF. The RHF SNFs did not utilize staffing agencies in 2020 and averaged less than \$70,000 per SNF in 2021.
- 13. The Cypress SNFs have poor clinical outcomes on one of the two of the Care Compare Quality Measures that are highly sensitive to staff stability: consistency of the staff and the number of staff hours PPD. The Cypress SNFs have a higher average percentage of long-stay high-risk residents with pressure ulcers (9.57%) compared to SNFs in California (7.40%) and in the United States (8.10%). When compared to the RHF SNFs (2.33%), the Cypress SNFs' average is significantly higher. A smaller number of residents at the Cypress SNFs lose too much weight (4.68%) compared to SNFs in California (5.10%) and the United States (6.00%). However, more Cypress SNF residents lose too much weight than the RHF SNF residents (4.10%).
- 14. Buena Vista is the Buyer-proposed operator for one of the four RHF SNFs in the transaction (Bixby Knolls). Over the past three years, the eight Buena Vista SNFs have been following state and federal regulations; however, their average number of deficiencies per SNF per year has been increasing. Collectively, the Buena Vista SNFs are rated as below average (2.6 stars) on Care Compare. Also, from 2019 to 2021, Buena Vista SNFs have been cited for a higher number immediate jeopardy and actual harm deficiencies than RHF SNFs and other California SNFs on average.
- 15. Haven and River Bend are two of Buena Vista's eight SNFs that share the most similarities with Bixby Knolls. All three are 99-bed SNFs that likely share some similar organizational structures to comply with common state and federal regulations (note that 44 of River Bend's beds are dedicated to more clinically complex Medi-Cal recipients). Buena Vista has been operating River Bend since 2019 and Haven since May 2021.
- 16. Care Compare reflects that Bixby Knolls has a higher overall star rating (3) than Haven (2) and River Bend (2). Also, Haven and River Bend have received a high number of deficiencies during their most recent inspections. In 2021 and 2022, Bixby Knolls recorded far fewer complaints and FRIs (33) than Haven (87) and River Bend (163).
- 17. In 2021, Haven and River Bend had unstable staffing and inconsistent staff compared to Bixby Knolls. Both Haven (110%) and River Bend (113.5%) experienced very high direct care staff turnover rates compared to Bixby Knolls (25%). In addition, Haven (11.7% staff retention rate) and River Bend (28.8% staff retention rate) struggled to retain their direct care staff while Bixby Knolls had a high direct care staff retention rate (81%).
- 18. In 2021, Bixby Knolls (4.92 PPD) had higher direct care nursing hours PPD than Haven (3.37 PPD) but lower than River Bend (6.30 PPD) which is likely due to the Medi-Cal Sub-Acute unit at River Bend.

- 19. Haven and River Bend utilized a very high number of contracted nurses from staffing agencies in 2021. Haven relied on the equivalent of over seven full-time nursing staff from staffing agencies and River Bend relied on the equivalent of over six full-time nursing staff from staffing agencies. Bixby Knolls did not utilize staffing agencies in 2021.
- 20. Haven and River Bend both have poor clinical outcomes on one of the two Care Compare quality measures that are highly sensitive to staff stability: consistency of the staff, and the number of staff hours PPD. The percentage of long-stay high-risk residents with pressure ulcers is 8.1% at Haven and 13.8% at River Bend—significantly higher than the percentage at Bixby Knolls (2.5%). Bixby Knolls also has fewer long-stay residents who lose too much weight (.7 %) when compared to Haven (2.8%) and River Bend (3.5%). However, all three SNFs are performing well on the weight loss quality measure when compared to state and national averages.
- 21. Medi-Cal Cost reports reflect some alarming changes at Haven since Buena Vista took operational control in May 2021. In the prior fiscal year under the previous operator, Haven was relatively stable (48% staff turnover and 70% staff retention) and its staff was consistent (only \$21,868 spent on staffing agencies). In the first eight months under Buena Vista's control, Haven experienced an increase in staff instability (110% turnover and 11.7% retention) and staff inconsistency (over \$350,000 in contracted nurses from staffing agencies), and has received an inordinate number of deficiencies (45 deficiencies) from inspectors.

Key Findings Regarding the Residential Care Facilities for the Elderly

- 1. Since 2017, the seller, RHF has operated its four RCFEs in the proposed sale largely in compliance with state and federal regulations. Especially since 2019, the RHF RCFEs have received few Type A or Type B citations. However, the RHF RCFEs' average citation rate per 10,000 bed days (.89 citation rate) exceeds the average citation rate for all RCFEs in California (.27 citation rate).
- 2. There is a public interest in ensuring that the level of care provided to the residents at the RHF RCFEs does not decline as a result of the sale to Pacifica.
- 3. Cypress is the Buyer-proposed operator of two of the four RHF RCFEs in the transaction. Cypress has formed two new wholly owned subsidiaries to operate the RHF RCFEs. Cypress and its subsidiaries do not have a history of operating or managing RCFEs in California that can be analyzed for this Healthcare Impact Statement.
- 4. California Senior Living Management, LLC, is a new LLC formed by and affiliated with Pacifica, and is the proposed operator of two of the RHF RCFEs. Pacifica is a privately owned real estate firm that operates 32 RCFEs in California.
- 5. Since 2017, Pacifica RCFEs have experienced a citation rate per 10,000 bed days (1.05) that is higher than the citation rate among the RHF RCFEs (.89). In this timeframe, the Pacifica RCFEs' citation rate has been trending up while the RHF RCFEs' citation rate has been on a downward trend.

6. Over the past five years, the Pacifica RCFEs have had a higher percentage of their citations triggered by complaints (54%) than the RHF operated RCFEs (26%). In addition, in three of the past four years, the RHF RCFEs have no citations triggered by complaints.

Overall Recommendation: Conditional Approval of the Proposed Transaction

Based on my experience and the findings summarized above, there is a possibility that the transaction could have a negative effect on staff stability, staff consistency, and direct care staffing hours, which would negatively impact the health and wellbeing of the residents (69% Medi-Cal recipients)⁶¹ at the RHF SNFs. Therefore, I recommend that The Office of Attorney General consider conditional approval of the proposed sale of the four RHF senior care communities to Pacifica, with a set of specific conditions related to monitoring the healthcare impact of the sale on both resident access and resident safety for three to five years from the first day following the applicable closing date of the APSA for each RHF senior care community.

Recommendation of Conditions for Monitoring the Healthcare Impact of the Transaction

- 1. Conditions related to monitoring and maintaining resident access should be imposed for five years.
 - A.) Require the Buyer to maintain and operate the four RHF SNFs in the sale as Medicare/Medi-Cal certified SNFs with a total of 275 licensed beds offering the same types of care and/or levels of services according to licensure at time of closing. The Buyer is to refrain from placing all or any portion of the four RHF SNFs' licensed bed capacity or services in voluntary suspension or surrendering its licenses for any beds or services.
 - B.) Per state regulations, place limitations on the Buyer to transfer or discharge any current RHF RCFE residents paying the Supplemental Security Income (SSI) monthly rate who transition from private pay to the SSI monthly rate. Residents living in the RCFE portions of the four RHF RCFEs shall not be required to transfer to another facility (or be evicted): (1) until their death, (2) until they voluntarily submit a written notice of intent to leave or transfer to another facility, (3) until the facility closes, or (4) unless residents fail to comply with the terms and conditions of their Admission Agreement (Cal. Code Regs., tit. 22, §87507) and are issued written notice of their failure to so comply, consistent with facility policy and state regulations (Cal. Code Regs., tit. 22, §8 87224 & 87455). In addition, per California Code of Regulations, title 22, sections 87464, subdivision (e), and 87224, subdivision (a)(1), Pacifica and any successors or assigns shall not evict any RHF RCFE resident for nonpayment when, due to declining resources, the resident is qualified to become or becomes an SSI recipient and reduces his/her payment to the SSI monthly rate.
 - C.) Place limitations on the Buyer to reduce or minimize access of Medi-Cal recipients to any of the 275 RHF SNF beds in the sale. Specifically, require the Buyer to refrain from

⁶¹ This is an average percentage of Medi-Cal residents in the RHF SNFs, taken from 75% at Bixby Knolls, 70% at Auburn Ravine, 40% at Gold Country, and 89% at Pioneer House.

designating any of the RHF SNF beds in the sale as available only to residents whose care is paid for by certain types of payors (private pay, Medicare, managed care, Kaiser).

- 2. Conditions related to monitoring resident safety should be imposed for three years.
 - A.) For the four RHF SNFs in the sale, from the first day following the applicable closing date of the APSA, the Buyer will submit a bi-annual (every 6 months) quality report to the Attorney General, which will include the following information:
 - a. CDPH and CMS statements of deficiencies and plans of correction.
 - b. State citations issued by CDPH.
 - c. Denial of payment, civil monetary penalties, or other financial penalties imposed by CDPH or CMS.
 - d. Recertification reports from CDPH or CMS.
 - e. Denial of new admissions by CDPH or CMS.
 - f. Copies of each of the four SNFs' Care Compare Five Star Provider Rating Reports covering two Care Compare updates.⁶²
 - B.) For the RHF SNFs in the sale, 90 days before any action is taken by the Buyer, require the Buyer to submit to the Office of the Attorney General any plans to reduce, minimize, or cut direct care staffing hours by .50 PPD or more from the baseline PPD on the month of the applicable closing date at any one of the SNFs. The notification must include the justification for the reduction in direct care hours PPD along with an analysis of the potential healthcare impact of the reduction in direct care hours on the residents.
 - C.) For the RHF SNFs in the sale, require the Buyer to organize and consult with a Community Advisory Committee on a quarterly basis at each of the SNFs and require the Buyer to submit documentation to the Office of Attorney General that the Community Advisory Committee is in place. The Community Advisory Committee membership will be voluntary and will include 7-12 SNF direct care staff members and SNF residents who will provide input to management regarding staffing issues and quality of care. In addition, the Community Advisory Committee members must receive a copy of the biannual quality report submitted to the Attorney General.
 - D.) For the RHF SNFs in the sale, appoint, at the Attorney General's discretion, a monitor to conduct onsite and remote reviews of all the RHF SNFs in the sale for a minimum of six months if any of the following occur at any one of the SNFs in the sale:

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⁶² The Care Compare Five Star Provider Rating Report is updated and emailed to each SNF in January, April, July, and October each year. The Care Compare Provider Rating Reports are comprehensive summaries of each SNF's star rating across all of the Care Compare performance domains.

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- a. A 30% increase over two quarters in the direct care staff turnover rate from the RHF SNF's baseline overall turnover rate on Care Compare posted on the month of the applicable closing date of the APSA.
- b. An increase of 3% or more in the percentage of long-stay high-risk residents with pressure ulcers from each RHF SNF's baseline long-stay high-risk pressure ulcer rate on Care Compare posted on the month of the applicable closing date of the APSA.
- c. Any finding of actual harm by CDPH or CMS.
- d. Any denial of payment for new admissions by CMS.
- e. Any A or AA state citation involving the death of a resident or residents issued by CDPH.
- E.) For the four RHF RCFEs in the sale, from the first day following the applicable closing date of the APSA, the Buyer will submit a bi-annual (every six months) quality report to the Attorney General, which will include the following information:
 - a. Any actions taken by CDSS, or other regulatory authorities.
 - b. Any Type A or Type B citations issued by CDSS, the corresponding plans of correction, and the status of each citation at time of reporting.
- F.) For the RCFEs in the sale, appoint, at the Attorney General's discretion, a monitor to conduct onsite and remote reviews for a minimum of six months if any of the following occur at any one of the RCFEs in the sale:
 - a. Four or more Type A citations in the previous six months.
 - b. Four or more citations (Type A or Type B) triggered by complaints in the previous six months.

G.) Standard Recommendations:

- a. Participation in Medicare. For five years from the applicable closing date of the APSA, the operator and/or licensee of the RHF SNFs shall be certified to participate in the Medicare program and have a Medicare Provider Number (or provider number for any successor program to Medicare) to provide the same types and levels of skilled nursing services to Medicare beneficiaries at the RHF SNFs as required in these Conditions.
- b. Notification of Changes. For five years from the applicable closing date of the APSA, Pacifica, and all owners, managers, lessees, or operators of the RHF SNFs or any portion thereof shall be required to provide written notice to the Attorney General 60 days prior to entering into any agreement or transaction to do any of the following:
 - a) Sell, transfer, lease, exchange, option, convey, manage, or otherwise dispose of any of the four RHF SNFs or any portion thereof.

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> b) Transfer control, responsibility, management, or governance of the four RHF SNFs or any portion thereof. The substitution, merger, or addition of a new member of the governing body, general partner, or limited partner of Pacifica that transfers the control of responsibility for, or governance of, any of the four RHF SNFs or any portion thereof shall be deemed a transfer for purposes of this Condition. The substitution or addition of one or more members of the governing body, general partner, or limited partners of Pacifica or any arrangement, written or oral, that would transfer voting control of the members of the governing body, general partner, or limited partners of Pacifica shall also be deemed a transfer for purposes of this Condition.

c.) Continuous operation of SNFs.

- 1.) For five years from the applicable closing date of the APSA for Auburn Ravine Terrace, the Auburn Ravine Terrace SNF shall be operated and maintained as a SNF with 59 skilled nursing beds and shall maintain the same licensure, types, and/or levels of services being provided including, but not limited to, audiology, occupational therapy, outpatient services, physical therapy, and speech therapy. The operator or licensee of the Auburn Ravine Terrace SNF shall not place all or any portion of the Auburn Ravine Terrace's skilled nursing licensed-bed capacity or services in voluntary suspension or surrender its license for any beds or services.
- 2.) For five years from the applicable closing date of the APSA for Bixby Knolls Towers, the Bixby Knolls Towers SNF shall be operated and maintained as a SNF with 99 skilled nursing beds and shall maintain the same licensure, types, and/or levels of services being provided including, but not limited to, audiology, occupational therapy, outpatient services, physical therapy, and speech therapy. The operator or licensee of the Bixby Knolls Towers SNF shall not place all or any portion of the Bixby Knolls Towers skilled nursing licensed-bed capacity or services in voluntary suspension or surrender its license for any beds or services.
- 3.) For five years from the applicable closing date of the APSA for Pioneer House, the Pioneer House SNF shall be operated and maintained as a SNF with 49 skilled nursing beds and shall maintain the same licensure, types, and/or levels of services being provided including, but not limited to, audiology, occupational therapy, outpatient services, physical therapy, and speech therapy. The operator or licensee of the Pioneer House SNF shall not place all or any portion of the Pioneer House's skilled nursing licensed-

bed capacity or services in voluntary suspension or surrender its license for any beds or services.

4.) For five years from the applicable closing date of the APSA for Gold Country Retirement Center, the Gold Country Retirement Center SNF shall be operated and maintained as a SNF with 68 skilled nursing beds and shall maintain the same licensure, types, and/or levels of services being provided including, but not limited to, audiology, occupational therapy, outpatient services, physical therapy, and speech therapy. The operator or licensee of the Gold Country Retirement Center SNF shall not place all or any portion of the Gold Country Retirement Center's skilled nursing licensed-bed capacity or services in voluntary suspension or surrender its license for any beds or services.

d.) Prohibition on discrimination.

For five years from the sale, at all four RHF senior care communities, Pacifica shall prohibit discrimination on the basis of any protected personal characteristic identified in state and federal civil rights laws, including California Civil Code section 51 and title 42, Code of Federal Regulations, section 18116. Categories of protected personal characteristics include:

- a. Gender, including sex, gender, gender identity, and gender expression.
- b. Intimate relationships, including sexual orientation and marital status.
- c. Ethnicity, including race, color, ancestry, national origin, citizenship, primary language, and immigration status.
- d. Religion.
- e. Age.
- f. Disability, including disability, protected medical condition, and protected genetic information.

Respectfully Submitted October 31, 2022:

David J. Farrell

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Qualifications of David J. Farrell

- California licensed nursing home administrator since 1990.
- Published author and coauthor of two books, "Meeting the Leadership Challenge in Long-Term Care" and "A Long-Term Care Leader's Guide to High Performance", and 20 articles related to improving clinical and human resource outcomes in senior care communities.
- Served on the Centers for Medicare and Medicaid Services (CMS) technical expert panel, which designed the Quality Assurance Performance Improvement (QAPI) federal regulation and provider education materials.
- Key contributor in the design and implementation of the education curriculum and measurement strategy of a CMS funded national pilot study titled "Improving Nursing Home Culture."
- Served as project manager of California's and Rhode Island's federally funded Quality Improvement Organizations (QIOs) under contract with the CMS as part of the National Nursing Home Quality Initiative.
- Served as the chairman of California's Advancing Excellence in Nursing Homes campaign.
- Serves as lead faculty for the state Long Term Care Leadership Academies in Iowa and California where he trains and coaches nursing home and assisted living Administrators and Directors of Nursing in developing and utilizing high performance leadership skills to improve staff stability and quality of care.
- Serves as the lead consultant on the Alameda County Public Health Department long-term care facility COVID outbreak team where he assists in the development and implementation of comprehensive county-wide strategies designed to prevent and mitigate COVID-19 outbreaks in 600 long-term care facilities in Alameda County.
- Testifying expert witness, nursing home administration, since 2020.