



September 24, 2015

Jason B. Nelson
Deputy General Counsel
Department of Elder Affairs
4040 Esplanade Way
Tallahassee, FL 32399-7000

Re: Comments Submitted After September 16, 2015 ALF Rule Development Workshop

Dear Mr. Nelson,

Thank you for arranging for telephone participation in the September 16, 2015, ALF Rule Development Workshop. Our assisted living facility members, most of which are part of multi-level retirement communities, appreciated the opportunity to listen to the discussion.

It is somewhat difficult to comment when a draft rule has not yet been published, but we do have the following suggestions to share:

- ✓ **58 A- 5.0181 Residency Criteria And Admission** -- It is very important that the rule makes it clear that ALFs have the flexibility to adopt their own admission and residency criteria within the parameters dictated by law. Not everyone wants or has the capacity to serve very impaired residents. We also believe that restrictions on the use of lifts should be revisited particularly for residents who do not require nursing home care but who have long-term disabilities such as MS or cerebral palsy that affect their ability to transfer.
- ✓ **58 A- 5.0185 (3) Assistance with Self – Administered Medication** -- Most of our members employ CNAs. They are more qualified than unlicensed staff to assist with the new tasks authorized in HB 1001. It is very important that they are authorized to assist with these tasks if they receive the additional training required by HB 1001 and related rules. If there is a conflict between the scope of services that a CNA may provide under Ch. 464, F.S., and the medication assistance services that an unlicensed trained employee may provide in an ALF, it needs to be resolved. It would be short-sighted to prohibit CNAs from assisting with medication assistance services since they have more training and presumably are better qualified than someone who is not certified.
- ✓ **58 A- 5.019 Staffing Standards** -- Staffing standards should remain as flexible as possible to accommodate the wide variety of ALFs ranging from freestanding mom-and-pop facilities to sophisticated facilities within retirement communities. A one-size-fits-all staffing standard makes no sense because of the different physical plants, different service offerings, and varied self-imposed admission criteria. If the staffing standards are changed, they should properly credit universal workers that many ALFs now use as part of the household model of care. In addition, it should be permissible to count housekeeping staff as direct care since housekeepers have regular contact with residents and are often the first to notice when resident behavior or habits change.

Quality of care is important, but so is affordability. Staffing mandates alone do not ensure quality. For a provider group as diverse as ALFs, mandates that do allow for flexibility will increase costs without necessarily having any cost-benefit to residents.

- ✓ **58 A- 5.0191 Staff Training** -- We concur with the recommendation that was made on September 16, 2015 to allow for a blending of online and in-person training. There are many excellent online training modules that are far more sophisticated than what some providers are capable of providing in-house.

The language in HB 1001 related to the two-hour preservice for new employees that have not taken the CORE training does not indicate whether this training must be based on the CORE training curriculum or if it is simply a two hour orientation with information deemed appropriate by the employer. Current law does not require any pre-service training other than a one-hour class on infection control. All other required training can occur within 30 days of hire. So clarification on this two-hour class is needed.

- ✓ **Nurses Practicing within the Full Scope of Their License** – Comments related to this topic that were made on September 16, 2015 were confusing. Based on our understanding of HB 1001, some ALFs may decide to drop their limited nursing license because of the provision that allows a nurse to practice within the scope of his/her license regardless of the license type held by the ALF. If this is not the case, the rule needs to clarify under what circumstances a nurse working in an ALF with a standard license would not be able to deliver routine nursing services to a resident who meets the residency criteria. If a nurse can practice within the scope of his/her license in a standard ALF, the logical interpretation is that additional services may be provided by staff in a standard ALF that previously may have been provided through a third-party as long as a resident meets the residency criteria in law and rule and the ALF is willing to offer extra nursing services.

It is not always clear what provisions in HB 1001 are self-implementing versus those that are delayed until the new rules are promulgated. An example is the two-hour preservice orientation that is required for new employees who have not taken the CORE training. Since I had the benefit of listening to the discussion on this topic, I realize that providers must provide the orientation on October 1 even though rules have not been promulgated to address the content of the training. But, it is not clear what the content of that training should be.

Thank you for the opportunity to submit comments. We look forward to receiving a copy of the draft rule.

Sincerely,



Mary Ellen Early
Public Policy Liaison