



ALF Legislative Update

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TO: LeadingAge Florida ALF Members
FROM: LeadingAge Florida Public Policy Team
DATE: April 29, 2015
SUBJECT: Comprehensive ALF Bill Passes Legislature

History:

In 2010, Governor Scott convened a Task Force to study and develop comprehensive regulatory changes to address a Miami Herald investigative report which found some very disturbing and life threatening situations in a few Assisted Living Facilities. Two LeadingAge Florida members (Brian Robare and Darlene Arbeit) served on the Task Force.

After four attempts to pass comprehensive reform, the 2015 Legislature on April 27 finally passed a lengthy ALF bill (CS/CS/HB-1001). Final Senate action on the bill occurred the day before the House abruptly called the 2015 Legislative Session to a close -- three days earlier than scheduled.

Representative Larry Ahern (R) Seminole and Senator Eleanor Sobel (D) Hollywood were the two key players in the passage of this legislation. Both legislators were very receptive and sought input from the various provider representatives. LeadingAge Florida public policy staff joined with other interested parties in advocating for changes to the bill as it made its way through the committee process. We are pleased to report the end product does not include three provisions that LeadingAge Florida members opposed: a revised system for fining ALFs based on the number of licensed beds, a consumer blog, and authority for the Agency for Health Care Administration to pull an Extended Care License if the ALF did not serve residents who needed ECC services over a specified period of time.

To view the enrolled bill CS/CS/HB-1001, click [here](#)

A summary of CS/CS/HB-1001 follows. Please note that changes most important to members are preceded with an asterisk.

Section 1:

- Amends s. 394.4575 to clarify that Medicaid Managed Care Plans are responsible for enrolled state-supported mental health residents and that managing entities under contract with the DCF are responsible for such residents who are not enrolled with a Medicaid health plan.
- Requires that the case manager of a mental health resident who resides in and ALF with a limited mental health license be provided to the administrator within 30 days of the

resident's admission a community living support plan.

- Requires that the case manager update the community living support plan annually or when there is a significant change in the resident's behavioral health status. Case manager will be required to maintain face to face interaction with the resident and make records available to the responsible entity for inspection.
- Requires mental health providers to retain records for 2 years.
- Requires case managers to consistently monitor Community living support plans and cooperative agreements.

Section 2:

- *Amends s. 429.0074 to require that any administrative assessment of an ALF completed by a representative of the local Ombudsman Council be comprehensive. In addition upon the completion of the assessment, requires the local Ombudsman Council to conduct an exit consultation with the facility's administrator or designee to discuss issues and concerns in the areas affecting residents, rights, safety, and welfare and, if needed, make recommendations for improvement.

Section 3:

- Amends s. 400.0078 to require ALFs to inform new residents that retaliatory action cannot be taken against a resident for presenting grievances and/or exercising any other right. This must be done in addition to giving information to new residents about the state Long-Term Care Ombudsman Program,

Section 6: Extended Congregate Care/Limited Nursing License

- Amends s. 429.07 to specify that an ALF must be licensed for at least 2 years to qualify for an ECC license.
- Clarifies that AHCA may revoke or deny an ECC License for not meeting any of the regulatory criteria in law.
- Creates a provisional ECC license, not to exceed six months, for an ALF that has been licensed for less than 2 years. Requires such providers to notify AHCA after they admit admits one ECC resident. Authorizes AHCA to issue a regular ECC license if upon inspection the ALF meets all of the requirements for ECC licensure. **The Bill does not include language opposed by LeadingAge Florida that would have voided the provisional license if an ECC resident was not enrolled within 3 months of issuance of the license.**
- *Reduces monitoring visits for facilities with an ECC license from quarterly to twice a year and authorizes AHCA to wave one of the monitoring visits if the facility has held an ECC license for at least 24 months and has had no class I or class II violations or uncorrected class III violations and no Ombudsman Council complaints that resulted in a licensure citation.
- *Reduces the monitoring visit for facilities with a limited nursing license from twice a year to at least annually and authorizes AHCA to make the visit in conjunction with other agency inspections or wave the annual monitoring visit if the facility has no class I and II

violations and no uncorrected class III violations and no Ombudsman Council complaint that resulted in a citation for licensure. This change should benefit several LeadingAge Florida members

Section 8,9 & 10: Violations and Penalties

- Amends s. 429.14 to replace the term “deficiencies” with “violations.”
- *Specifies that AHCA must deny or revoke a license for the following:
 - a. 2 or more moratoria issues and in final order within a 2 year period.
 - b. 2 or more class I violations arising from unrelated circumstances during the same period of time.
 - c. 2 or more class I violation arising from separate surveys or investigation.
- Requires AHCA to impose an immediate moratorium on an ALF that fails to provide surveyors with access to the facility and prohibits a licensee from restricting access by AHCA staff to any records or from conducting confidential interviews with facility staff and residents.
- Provides an exemption from the 45-day notice required of ALFs to inform residents of their relocation if the relocation is due to AHCA action.
- Requires AHCA to impose a \$500 if a facility is not in compliance with background screening requirements for staff.

***Section 11: Assistance with Self-Administration of Medication:**

- Amends s. 429.256 to allow ALF staff who have complete required training to the do the following additional tasks:
 - a. Assist with an insulin syringe that is prefilled by a pharmacist and an insulin pen that is prefilled by the manufacture.
 - b. Assist with the use of a nebulizer.
 - c. Assist with use of a glucometer to perform blood-glucose level checks
 - d. Assist with putting on and taking off anti-embolism stockings.
 - e. Assist with oxygen cannula but not with titration of the prescribed oxygen settings.
 - f. Assist with measuring vital signs.
 - g. Assist with colostomy bag.

Section 12: Property and Personal Affairs of Residents:

- Amends s. 429.27(3) to increases the amount of cash that a facility may provide sake-keeping for a resident from \$200 to \$500.

Section 13: Resident bill of rights:

- Amends s 429.28 to require ALFs to include Disability Rights Florida (DRF) in the required posted notice of Residents Rights. The notice must also state that a complaint has been made the names and identities of the residents involved in a complaint to the State Ombudsman Council will remain confidential.
- Directs AHCA to adopt rules for uniform standards and criteria that will be used to determine compliance with facility standards and compliance with residents’ rights.
- Requires AHCA to impose a fine of \$2,500 if an ALF terminates the residency of an

individual who participates in activities to exercise any right under this section, appears as witness in any hearing inside or outside a facility and files a civil action.

Section 14: Right of Entry and Inspection:

- Amends s. 429.34 to require any person with knowledge or reasonable cause to suspect that a vulnerable adult has been or is being abused, neglected or exploited to immediately report the incident to the central abuse hotline.
- Requires AHCA to inspect every ALF every 24 months to determine regulatory compliance.

Section 15: Rules establishing standards:

- *Amends s. 429.41 to clarify that staffing requirements for CCRCs or a community providing multiple levels that license a building designated for independent living for assisted living apply only to residents who receive personal, limited nursing or extended congregate care services. This is a change that LeadingAge Florida pursued successfully to the last ALF rule changes. It is now law so it can no longer be challenged or questioned without a change in law.
- Required such facilities to retain a log of names and unit numbers of residents receiving ALF services and make this information available to surveyors.

Section 16: Staff training and Educational programs:

- Amends s. 429.52 to specify that effective October 1, 2015, each **NEW** facility employee who has not previously completed core training must attend a pre-service orientation of at least 2 hours by the facility before interacting with residents. Requires that a signed statement by employee and administrator be placed in the employee's file to verify compliance.

Section 17: Web-Page

- Amends s. 429.55 to create a modified and expanded ALF consumer web-page, expanding on the current information on AHCA's website that you can find in Healthfinder.gov currently. The expanded web-page will include a significant amount of additional information intended to help consumers when selecting an ALF. There is no "**Blog**" about the legislation.

Section 18: Effective Date 7/1/15