



Health Innovation Subcommittee

**Tuesday, November 5, 2013
1:00 PM - 3:00 PM
306 HOB**

**Will Weatherford
Speaker**

**Jason T. Brodeur
Chair**

Committee Meeting Notice
HOUSE OF REPRESENTATIVES

Health Innovation Subcommittee

Start Date and Time: Tuesday, November 05, 2013 01:00 pm
End Date and Time: Tuesday, November 05, 2013 03:00 pm
Location: 306 HOB
Duration: 2.00 hrs

Presentation on Assisted Living Facility Regulation – Agency for Health Care Administration

NOTICE FINALIZED on 10/29/2013 15:39 by Iseminger.Bobbye

Assisted Living Facilities in Florida

Agency for Health Care Administration

Molly McKinstry

Deputy Secretary Health Quality Assurance

November 5, 2013



Assisted Living Agency Initiatives

- Assisted Living Workgroup
 - Phase I Recommendations
 - Phase II Recommendations
 - Public Comment and Workgroup Discussion
- Senate 2011 Interim Report: Review Regulatory Oversight of Assisted Living Facilities in Florida
- Stakeholder Comments and Suggestions

Recent Changes

- Enhanced Partner Communication/Coordination
- Consumer Information and Outreach
- ALF Enforcement Team
- Revised Survey Process
- Enhanced Surveyor Training and Survey Oversight

Assisted Living Facilities

- Provide full-time living arrangements in the least restrictive and most home-like setting
- Range from individual apartments or rooms that a resident has alone or share
- Least Restrictive Setting
- Maintain Independence to Extent Possible
- Regulations Must be Flexible to Allow Aging in Place

ALF License Types

- **Standard**-Assistance with or supervision of activities of daily living and self-administration medications
 - Appropriately licensed personnel may administer medications
- **Limited Mental Health** – Required if the ALF has more than two mental health residents receiving OSS or social security disability
- **Extended Congregate Care** – Allows for the provision of more complex services (highest acuity)
- **Limited Nursing Services** – Allows for the provision of certain “nursing” services

Assisted Living Facilities and Beds

Type of Facility	Number of Facilities	Total Number of Beds	Private Pay Number of Beds	OSS Number of Beds
Standard	3,048	86,361	71,644	14,717
Limited Mental Health	1,040	14,737	3,980	10,762
Extended Congregate Care	276	14,446	15,456	1,383
Limited Nursing Services	1,025	30,890	24,864	6,026

Assisted Living

State & Local Government Roles

- Agency for Health Care Administration
 - Licensure and Regulation
 - Medicaid – Assisted Care Services, Various Waiver
- Department of Children and Families
 - Adult Protective Services
 - Mental Health Clients in ALFs
 - Specific Medicaid Waiver
- Agency for Persons with Disabilities
 - Developmentally Disabled Clients in ALFs
- Attorney General
 - Medicaid Fraud Control
 - Patient Abuse, Neglect and Exploitation (PANE)
 - Operation Spot Check
- Health Department
 - Health & Sanitation Inspections

Assisted Living

State & Local Government Roles

➤ Department of Elder Affairs

- Rule Development for Assisted Living, Adult Family Care Home, Adult Day Care, Hospice
- Comprehensive Assessment and Review of Long-Term Care Services (CARES)
- Long-Term Care Ombudsman Program
- Statewide Public Guardianship Office
- Assisted Living Trainer Certification
- Specific Medicaid Waivers

➤ Local Authorities (ALF)

- Fire Authority – Fire & Life Safety Approval
- Zoning / Building Code Approval and Enforcement

Outreach and Communication Providers and Consumers

- Statewide joint training for administrators, providers and survey staff
- Enhanced FloridaHealthFinder
 - Assisted Living Portal consolidates consumer information
 - Medicaid services provided by the facility
 - Smartphone apps to locate facilities faster
 - Sanctions and emergency orders
 - Link to all Agency final orders (legal actions – Medicaid and licensure)
- Monthly press releases regarding sanctions, closures, and other actions – all provider types
- Collaborative training with other departments and agencies (provider and staff training)

Outreach and Communication Partner Agencies

- Weekly facility actions meetings to address licensure and Medicaid issues
- Joint inspections with Medicaid Program Integrity
- Access to systems and data used by partner agencies
- ALF awareness training for waiver support coordinators and Agency staff (Joint venture between licensure and Medicaid)
- Routine interagency meetings with Agency partners
- Long Term Care Managed Care Coordination
 - DOEA Nursing Home Diversion Waiver Providers
 - Managed Care Plans – Network Provider Status

ALF Inspections & Monitoring

- Biennial Licensure Inspections
- Complaint Investigations
- Quarterly ECC Monitoring
- Twice a Year LNS Monitoring
- Inspection Process
 - Regulatory and Complaint History
 - Adverse Incidents
 - Abuse Reports
 - Ombudsman Reports

ALF Enforcement Team

- Team of thirteen ALF surveyors
- Functionally separate from the local survey management staff but are physically located in each of the eight Agency field offices
- Primary functions include:
 - Conducting high priority complaints
 - Collaborating with other agencies and law enforcement
 - Participating in unlicensed activity investigations
 - Performing off hours or weekend inspections and monitoring activities
 - Conducting quality assurance reviews

Assisted Living Surveyor Training

- 16-week comprehensive orientation program
 - Review of relevant rule, statutes, and regulations
 - Performance of the survey process, Principles of Documentation
 - Field experience with a qualified mentor/preceptor
- ALF CORE Surveyor Training
 - 4.5-day didactic training
 - Training includes basic materials required for CORE training as well as surveyor tasks
 - Surveyors must score a minimum of 80% on the post test to successfully complete this training
- Validation field survey with ALF Enforcement Supervisor for final readiness determination
- Revised quality assurance reviews

Revised Assisted Living Survey

- Enhanced Focus on Residents
- Concentration on Interviews, Observations, and Record Review
- Improve Consistency/Revised Regulation (Tags)
- Abbreviated Review as Authorized by Law
 - Two Survey Periods (Four Years)
 - Consistent Ownership
 - Survey History
 - Licensure Complaint History
 - Ombudsman Complaint History
- Focus on Resident Feedback and Outcomes

Assisted Living Facility Abbreviated Survey

Implemented abbreviated surveys for ALFs with compliance histories as defined in s. 429.41(5), Florida Statutes

- No class I or II
- No uncorrected class III
- No confirmed Ombudsman or licensure complaints within two licensing periods (4 yrs.)
- Must have two survey periods under the current owner

ALF Inspections & Violations

	FY 2008/09	FY 2009/10	FY 2010/11	FY 2011/12	FY 2012/13
All Inspections/Visits	4,735	5,826	6,367	6,859	6,219
Inspections/Visits with Deficiencies	1,725	2,114	2,105	2,354	2,311
Class I	55	25	109	107	46
Class II	260	215	351	746	510
Class III	10,262	12,506	11,696	8,846	7,342
Class IV	1,257	1,577	731	261	212
Total Violations Cited	11,834	14,323	12,887	9,960	8,110

Regulatory Sanctions

- **Emergency Actions – Limited to Serious Ongoing Issues (Imposed Immediately)**
 - Moratorium
 - Suspension
- **Sanctions for Violations (Due Process Before Imposed)**
 - Conditional Licenses
 - Fines - Class I, Class II, Uncorrected Class III
 - Denial of License Renewal or Initial Application
 - Revocation of License
 - Closure During Litigation

Assisted Living Sanctions

- Centralized evaluation of sanctions based on inspections
- Consolidate cases when appropriate
- Track and monitor case status in concert with license renewals
- Monthly press release of terminations / legal actions with closures

Regulatory Sanctions

- Due Process for Sanctions
 - Opportunity to Challenge
 - Actions Pend During Litigation
 - Imposed by Final Order
 - May Also Be Challenged
 - Court Can Enjoin Agency Imposition

Fine Structure

- Class I Violations— \$5,000 - \$10,000
- Class II Violations— \$1,000 - \$5,000
- Class III Violations— \$500 - \$1,000
- Class IV Violations— \$100 - \$200

- **Prior to the imposition of a penalty, the Agency must weigh:**
 - The gravity of the violation, including the probability that death or serious physical or emotional harm to a resident will result or has resulted, the severity of the action or potential harm, and the extent to which the provisions of the applicable laws or rules were violated.
 - Actions taken by the owner or administrator to correct violations.
 - Any previous violations.
 - The financial benefit to the facility of committing or continuing the violation.
 - The licensed capacity of the facility.

Assisted Living Fines

	# of ALFs	# of Cases	Fines Imposed
FY 2007/08	351	500	\$819,916
FY 2008/09	354	471	\$685,392
FY 2009/10	243	324	\$627,055
FY 2010/11	406	519	\$783,247
FY 2011/12	426	546	\$1,615,105
FY 2012/13	405	508	\$1,116,432

Assisted Living Enforcement Actions and Affiliated Closures

	FY 08/09	FY 09/10	FY 10/11	FY 11/12	FY 12/13	Total
Suspensions	2	1	2	5	6	16
Revocations	4	12	7	17	15	55
Denials	11	7	5	9	12	44
Closed/ Failed to Renew during Legal Case	37	40	46	38	28	189
Total	54	60	60	69	61	304

Provider Outreach

- Joint Training Coordinated with the Associations and Partner Agencies
- Behavioral Health Managed Care Workgroup
 - Assisted Living Subgroup

Legislative Opportunities

- Clarify case management oversight in limited mental health facilities
- Revise inspections to focus on regulatory problems
- Remove subjective criteria from fines and focus fines on severe violations
- Simplify emergency moratoria criteria
- Medication assistance and standards

Nurses Scope of Practice

- Limited for all ALFs based on appropriateness of residents
- Limited Nursing Services License allows broad scope of nurse services
- Effect of allowing nurses to operate within scope would eliminate need for limited nursing services specialty license

Medication Assistance

- Unlicensed staff may assist residents with self-administration of medication
- Four hours of initial training and two hours annually

Unlicensed Assisted Living Facilities

- Any home or building that provides housing, meals, and one or more personal services to more than two persons who are unrelated.
 - Exception: A person may provide care to not more than two persons if they live in the home and the persons do not receive Optional State Supplementation
- The Agency must notify the operator of the unlicensed activity and return to verify if the operator has ceased prior to imposing sanctions.

Unlicensed ALF Sanctions

- Criminal penalties for failure to cease after notice
- \$1,000 per day fine for failure to cease after notice
- Disciplinary action if an AHCA or DCF employee knowingly refers a patient
- Fines and corrective action for AHCA and DCF contractors who knowingly refer

Unlicensed ALFs Awareness

- Routine interagency meetings to coordinate unlicensed ALF information
- Shared interest with Unlicensed Practitioners
- Raise awareness of placement organizations
- Partner brochure and training