

Assisted Living Bill HB 1001

In 2011, the Florida ALF Workgroup made recommendations regarding regulations that were designed to improve administrative capacities, expand the quality of staff training, increase the frequency and rigor of surveys and inspections, better develop the coordination and information sharing among all ALF agencies, and strengthen the voices of residents. Shortly after the final report was submitted in 2012, the DOEA, along with AHCA, DCF, and DOH collaborated to draft and amend mutually acceptable rules addressing the safety and quality of care provided to ALF residents. Most of the issues discussed in the meetings were identified by Phase I of the workgroup as areas of concern that could be reformed via the rulemaking process (HB 1001 2015). This issue brief describes the recent changes in Florida regarding the ALF regulations and compares it to the advice given by the Florida ALF workgroup.

The ALF Bill HB 1001 is the first bill in four years to be passed by the Legislature (Senate 38-0 and House 114-0). The purpose of the bill is to

improve the quality of ALFs by adding regulatory provisions. In general, the bill focuses on providing new tools for monitoring and disciplining homes that do not measure up. On June 10, 2015 Gov. Rick Scott signed the ALF reform legislation into law. It became effective on July 1, 2015.

HB 1001 Proposed Changes

The purpose of the proposed rules is to implement segments of the recommendations from the Governor's Assisted Living Facility Workgroup.

Limited Mental Health License

The first amendment (s. 394.4574, F.S.) clarifies who is responsible for assuring that mental health residents in an ALF receive necessary services. Specifically, Medicaid managed care plans are responsible for enrolled state-supported mental health residents, and managing entities under contract with the DCF are responsible for residents who are not enrolled with a Medicaid health plan. A mental health community living support plan must be submitted within 30 days of admission and updated if there is a significant change in the residents' behavioral health status. The case manager is responsible for keeping

record of all in-person communication with the resident for 2 years, monitoring the living support plan, and reporting any signs of neglect or potential harm to the resident.

The second amendment (s. 429.075, F.S.) requires facilities to obtain a LMH license with at least one state-supported mental health residents. Further, it allows the LMH facility up to 72 hours from a resident's admission to receive a copy of the community living support plan as long as it provides evidence of a written request for the care plan.

Long-Term Care Ombudsman Program

The amendment for Administrative Assessment (s. 400.0074, F.S.) requires a comprehensive assessment from the Ombudsman and an exit consultation with the administrator regarding concerns and recommendations for improvement.

The Resident Grievance amendment (s. 400.0078, F.S.) requires ALFs to advise the resident, or representative, upon admission that exercising residents' rights or submitting a grievance against the ALF cannot lead to retaliatory action against them.

Extended Congregate Care & Limited Nursing Service License

The amendment for ECC and LNS (s. 429.07, F.S.) adds provisions to improve

regulation of these licensed facilities. Specifically, it allows a temporary ECC license for ALFs that have been licensed less than 2 years, and specifies when AHCA may deny or revoke a facility's license. The temporary license is valid for 6 months and, following that time, if the ALF demonstrates compliance with the requirements, AHCA must grant the facility an ECC license. Monitoring visits may be reduced for facilities with ECC licenses from quarterly to twice a year, and for facilities with LNS licenses from twice a year to once a year.

Violations and Penalties

There is an amendment for additional criteria under which AHCA must deny or revoke a facility's license (s. 429.14, F.S.) including 2 or more class I violations within two years, or if the facility is cited for 2 or more class I violations arising from unrelated circumstances during the same survey or investigation. In addition, AHCA must impose an immediate suspension on a facility that does not allow AHCA enter to the facility, refuses a regulatory inspection/interviews, or restricts access to residents' records. Lastly, a facility is exempt from the 45-day notice requirement if AHCA requires relocation of the facilities residents.

An amendment to s. 429.19, F.S. requires a facility to pay a \$500 fine to AHCA if it does not comply with the background screening requirements of s. 408.809, F.S.

Assistance with Self-Administration of Medication

The amendment for s. 429.256, F.S. authorizes ALF staff who received the required 4-6 hours of training to perform specific additional services to assist with self-administration of medication. The services include bringing a prefilled insulin syringe to the resident, and using a nebulizer and glucometer. The staff can also assist with anti-embolism stockings, oxygen cannula, a continuous positive airway pressure device, colostomy bags, and measuring vital signs.

Personal Property of Residents

The bill amends s. 429.27(3), F.S., to increase the amount of cash that a facility may provide a resident from \$200 to \$500.

Resident Bill of Rights

The amendment for residents bill of rights (s. 429.28, F.S.) requires that the facility ensure each resident have access to a telephone and provides the telephone number for Disability Rights Florida. Also, a fine of \$2,500 will be imposed if a facility does not show good

cause for terminating the residency of an individual.

Right of Entry and Inspection

The bill amends s. 429.34, F.S., to add Medicaid Fraud investigators and state or local fire marshals to the list of people who must report abuse or neglect to the Department of Children and Families' central abuse hotline. In addition, AHCA is required to conduct an additional inspection within 6 months of a facility cited for certain serious violations (one or more class I violations, three or more class II violations arising from separate surveys within a 60-day period, or three or more unrelated class II violations cited during one survey).

Staff and Training Requirements

The first amendment (s. 429.41, F.S.) clarifies that ALF staffing requirements apply only to residents who receive personal LNS or ECC services in a continuing care facility or retirement community. A list of the residents' names and units must be available for surveyors upon request.

The second amendment (s. 429.52, F.S.) requires new facility staff that have not previously completed core training to attend a 2-hour pre-service orientation before interacting with residents. The topics covered in the orientation must

teach the staff how provide responsible care and respond to the needs of the residents. The staff member and the ALF administrator must sign a statement of completion of the orientation.

Consumer Information Resources

The bill created s. 429.55, F.S., which requires AHCA to add certain content to its website by November 1, 2015, to assist consumers in selecting an ALF. The website must include the following information: facility name and address, owner and operators name, number and type of licensed beds, types of licenses and expiration dates, total number of clients that the facility is licensed to serve and the most recent occupancy levels, number of private and semi-private rooms, bed-hold policy, religious affiliation, languages spoken by staff, availability of nurses, accepted payment methods, identification if facility is operating under bankruptcy protection, all programs available, special care units offered, part of a retirement community that offers other services, links to State LTC Ombudsman Program website and the program's statewide toll-free telephone number, links to the providers websites, all relevant information collected by AHCA, a list of survey and violation information committed in the previous 60 months


along with sanctions imposed, and links to inspection reports on file with AHCA.

In sum, the HB 1001 bill requires a small increase in employee training and background screening, doubles fines for ALFs with recurring deficiencies, provides detailed regulations for shutting down repeat violators, requires a special license for an ALF that provides mental health services, establishes fines when residents complain about treatment, allows staff to assist with simple medical tasks, and decreases the frequency of inspections when homes demonstrate a good track record.

Recommendations from the Florida ALF Workgroup used in the HB 1001 Bill

The Assisted Living Workgroup composed a series of recommendations based on public meetings and member input. The Phase I recommendations included issues that the workgroup felt could be addressed immediately. The workgroup also formulated issues identified separately as Phase II that were intended to allow an additional six to twelve months of evaluation and dialogue prior to being considered as formal recommendations.

The ALF workgroup made over one hundred recommendations between both phases, and only around a quarter of them were included in the amendments for the bill. Some of the sections completely left out of the bill include the following: ALF administrator qualifications, core and limited mental health training, home and community based care, and funding. Even though the bill is far from perfect, the changes could help protect the lives of countless vulnerable citizens. However, the excluded issues are still very important to the quality of care provided in ALFs, and should be considered for future amendments.


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