

Recommendations from ALF Workgroup
for Legislation

Larry Polivka, Ph.D.
Claude Pepper Center, Florida State University

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Background: Assisted Living in Florida

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- Assisted living in Florida has been a growth industry for several years.
- Today, there are over 3,042 licensed facilities in Florida, representing 85,000 beds.¹

1) Florida Health Care Association, Facts about Long Term Care in Florida

Assisted Living is Growing

- Publicly supported assisted living population has grown considerably in twenty years and now exceeds 25,000.
- This population is expected to grow very fast over the next 10 years.

Older Adult Population is Diverse and Growing

- By 2020, more than one in five Floridians (3.5 million residents) will be 65 or over.¹
- Residents are more diverse and impaired than residents 15-20 years ago.
 - By 2025, the number of older adults with Alzheimer's disease in Florida will increase to 720,000.²

1) Institute of Medicine: Retooling for an Aging America, 2) 2014 Alzheimer's Disease Facts and Figures, Alzheimer's Association

Need to update Regulatory Framework

- Residents are able to age in place, but regulations have not been updated in response to changes in resident acuity and levels of care need.

Current Assisted Living System

- Levels of Care:
 - State licenses “assisted living facilities” with option for additional licensure recognition for:
 - Extended congregate care
 - Limited mental health
 - Limited nursing services
 - Extended congregate care allows facility to provide additional nursing and assistance with activities of daily living to residents
- Enforcement System

2011: Creation of the Assisted Living Task Force

In 2011, investigative journalism reveals need for reform

May 2011:

Neglected to Death-Three part series by Rob Barry, Michael Sallah, and Carol Marbin Miller:

“Investigation of Florida’s assisted living facilities finds that safeguards once hailed as nation’s best were ignored in a spate of tragedies never before revealed to the public.”¹

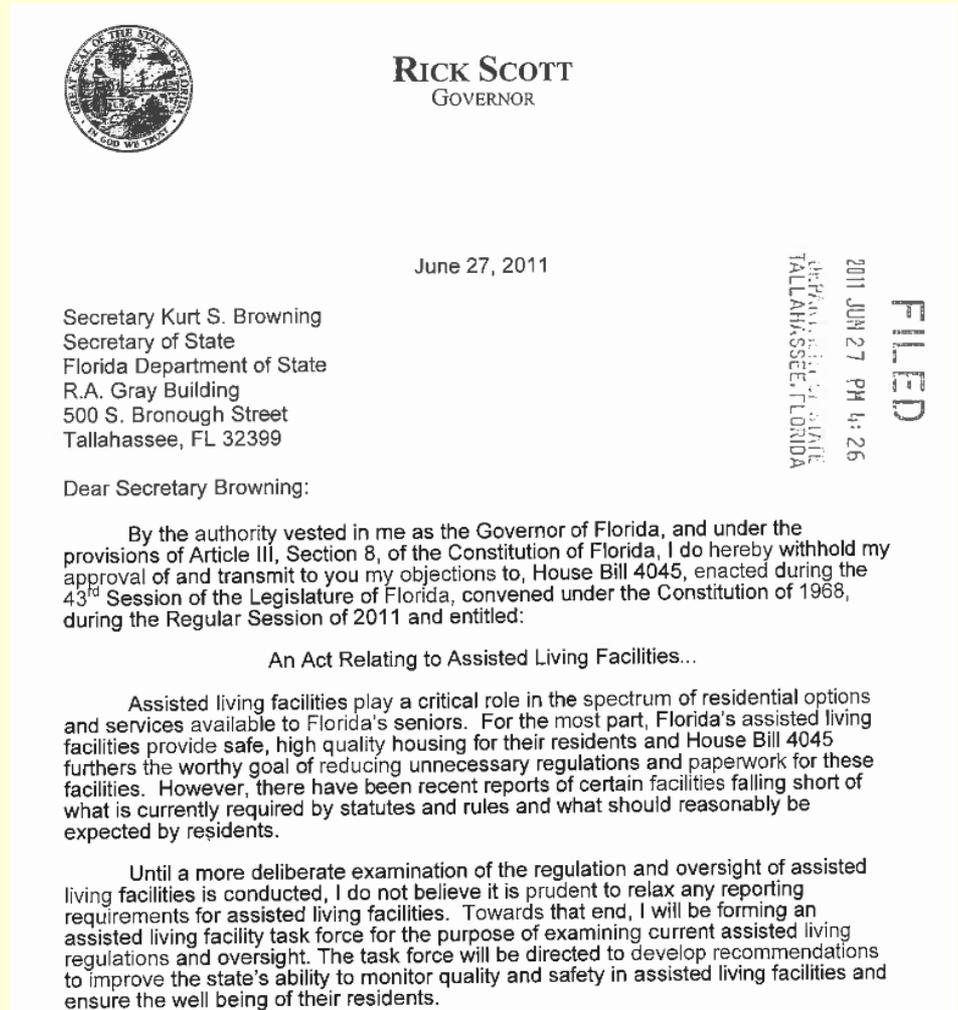


1) Miami Herald, 5/3/2011, <http://www.miamiherald.com/news/special-reports/neglected-to-death/article1938076.html>

Governor creates Assisted Living Task Force

- June 27, 2011:
 - Governor Rick Scott vetoes legislation that would relax reporting requirements for assisted living facilities.
 - Governor Scott creates an assisted living task force to examine current regulations and oversight.¹

1) June 27 Letter: <http://www.flgov.com/wp-content/uploads/2011/06/hb4045.pdf>.



Assisted Living Task Force

- August 2011-October 2012:
 - Task Force convenes
 - Members
 - Politics and Policy

Background on Task Force

- The Assisted Living Workgroup met from August 2011 to October 2012 (7 meetings) and produced two Reports (Phase I and Phase II) with 125 recommendations.
- I've always been very sensitive to regulatory over reach in assisted living and opposed the imposition of a NH like regulatory framework in assisted living since the 1980s.
- I've supported increasing Assisted Living Facilities capacity to allow aging in place (admission and retention of more impaired residents) since directing the development of the ECC License in 1990/91.
- I've also felt, however, that we (policymakers, advocates, media) should monitor the growth and changes in assisted living (residents and services) from a public policy perspective, including regulation.
- As more impaired residents live in assisted living and age in place we need to ensure that the regulatory framework continues to be effective--responsive to resident needs for an adequate quality of care and life.
- I think I shared this perspective with other members of the Assisted Living Workgroup, all of whom were very conscientious and thoughtful in all workgroup deliberations and the development of final recommendations. It was an honor to be able to work with them.

Task Force Perspective

- Many Phase I recommendations were included in 2012 ALF legislations (2 senate bills—most of the higher priority recommendations were in both bills and other were in one or the other bill).
- I identified the following recommendations from the work group Phase I and Phase II Reports for priority attention in the development of 2013 Legislation.
- I did not include any from the 24 training recommendations, several of which were addressed in the DOEA negotiated rule for assisted living. I am inclined to defer to AHCA, DOEA and others in identifying the other training recommendations that should be included in any 2013 Legislation.
- These selected recommendations reflect my own sense of ALF regulatory priorities. I do not pretend to speak for the work group as a whole.

Task Force Recommendations

ALF Administrator Qualifications

Raise standards to become an ALF administrator including:

- Take core training and pass competency examination, and
- Be at least 21 years of age, and
- Have an associate degree or higher from a accredited college (in a health care related field) and (one year experience) working in a health care related field having direct contact with one or more of the client groups or,
- A bachelor's degree in a field other than in health care from an accredited college and (one year experience) working in a health care related field having direct contact with one or more of the client groups or,
- A bachelor's degree in a field other than in health care from an accredited college and one year experience working in an ALF or,
- At least two years experience working in a health care related field having direct contact with one or more of the client groups or,
- A valid nursing home administrator's license, or
- A valid registered nurse license, or
- Grandfather existing administrators with certain training and experience, and no Class I or Class II deficiencies in their past.

Resident Discharge

- Reduce the resident discharge notice from 45 to 30 days and provide an option for the resident to appeal with a decision within 10 days. The entire appeal process should take no longer than 45 days.
- Mandate that social workers and discharge planners provide a completed AHCA 1823 Form to the assisted living facility administrator to ensure appropriateness of the resident's admission.

Resident Admission, Quality of Life, Discharge, Safety and Rights

Hold state and local hospitals accountable for discharge planning that matches individual needs and desires to an appropriate and available setting that best integrates individuals into the community. Modify Chapter 395, F.S., to require hospital document consideration of an individual's choices in discharge placements.

ALF Information and Reporting

- Require minimal online data submission to the Agency on a quarterly basis. ALFs currently submit data to the agency in a variety of online applications including adverse incident reporting, monthly liability claim reporting and participation in the Emergency Status System (over 85% of ALF have online accounts). ALF data submission to the Agency should include:
 - Number of residents (census)
 - Number of residents requiring specialty license services: Limited Nursing Services (LNS), Limited Mental Health (LMH), Extended Congregate Care (ECC)
 - Number of residents on Optional State Supplementation (OSS)
 - Number of Medicaid recipients whose care is funded through Medicaid by type of waiver

Enforcement

- Require AHCA to assess certain administrative penalties such as increasing sanctions for recurrence of serious deficiencies affecting resident' health, safety, or welfare or failure to pay fine.
- Require a mandatory moratorium for serious violations (Class I or II), when an ALF fails to correct all outstanding deficiencies and reach full compliance at the time of a follow up visit or by the mandatory correction date.

Resident Advocacy

Ensure volunteers have the right to visit licensed programs at any time for purposes of monitoring as well as for complaint resolution. All observations and findings should be submitted to AHCA and acted on in an expedited manner.

Mental Health

Require a Limited Mental Health (LMH) license for ALFs with any mental health residents. The current definition of LMH license is an ALF that serves three or more mentally ill or disabled residents must obtain a limited mental health (LMH) specialty license.

For the purposes of assisted living licensure, a mental health resident is defined as an individual who receives social security disability income (SSDI) due to a mental disorder or supplemental security income (SSI) due to a mental disorder, and receives optional state supplementation (OSS). This definition is limited as there may be other assisted living facility residents with severe and persistent mental illness who have a case manager but do not meet this specific definition.

Mental Health (Continued)

- Require the ALF's administrator, or designee, who acts to have a resident involuntary examined pursuant to Chapter 394, F.S., to document in the resident record the steps taken to prevent the Baker Act within five business days after the initiation of the Baker Act. The presence of the documentation within the timeframe permitted shall be sufficient to satisfy the requirement.
- Improve case management services and advocacy for residents by offering residents choice of case managers and living arrangements.
- Prohibit targeted case management from being provided by an assisted living facility.
- Increase the monitoring of case managers.
- Clarify roles and responsibilities of LMH ALFs and make appropriate changes through a collaborative process including AHCA, DOEA, DCF and any other appropriate agencies.
- The Phase I recommendation to require a Limited Mental Health License for ALFs with any mental health residents (one or more) should not be lost sight of.

Multiple Regulators

Require in law that AHCA staff and other agencies involved in ALF's report knowledge or suspicion of any resident abuse, neglect or exploitation to the central DCF abuse hotline.

Multiple Regulators (Continued)

Form a workgroup of all agencies involved in ALF regulation and stakeholder groups to develop a new organizational structure streamlining the regulatory process.

Designate AHCA as the lead agency for all regulatory activities in the interim.

Multiple Regulators (Continued)

Allow AHCA discretion to use DCF Adult Protective Services findings and pursue sanctions for verified abuse and neglect findings in a facility.

ALF Policy Review Council

Establish an ALF Policy Review Council with broad representation from AHCA, DCF, DOEA and ADP, from the ALF industry, ALF residents and family members, aging and disabled adults, mental health and developmentally disabled advocates and other policy experts. The council should have 15-20 members appointed by the Governor for terms of two and three years and meet at least three times a year. Several other high priority ALF Workgroup recommendations could be among the first issues addressed by the Council.

ALF Policy Review Council (Continued)

The ALF Policy Review Council could evaluate the ALF enforcement process beyond a punitive approach. Although the punitive approach is necessary for chronically poor performing facilities, it is not the best way to elevate quality across the ALF community. Examine the Wisconsin model for ALF regulation which is similar to the AHCA abbreviated survey with the addition of a consultative/collaborative regulatory model.

Consultative Model Pilots

Establish pilot projects to test consultative health quality initiatives in Florida. The pilot projects should include criteria for quality improvement plans and a means of measuring progress towards implementation of plans. These pilot projects should include data collection requirements regarding resident satisfaction, quality of care indicators and use of best practices by frontline caregivers.

Cost of Care Study

AHCA should conduct a cost of care study that would establish cost of care to meet all the requirements associated with the care of a resident in a licensed LMH ALF, a standard licensed facility, a licensed LNS and ECC facility.

Consumer Information

- Develop an independent Medicaid consumer choice counseling hotline for patients, their families or medical professionals to access information on making informed decisions about appropriate ALF placement.
- The hotline should be operated by a third party to eliminate the possibility of referrals to facilities motivated for reasons other than resident needs.