

Assisted Living Workgroup Minutes

July 27, 2012

8:00 am – 1:00 pm

Florida Department of Transportation
3400 West Commercial Blvd.
Ft. Lauderdale, Florida 33309

MINUTES

MEMBERS PRESENT

Larry Polivka, Chair
Larry Sherberg
Darlene R. Arbeit
Luis E. Collazo
Jack McRay
Jim Crochet
Martha Lenderman
Roxana Solano
Charles Paulk
Brian Robare
Steven Schruck
Scott Selis
Senator Rene Garcia
Representative Matt Hudson

STATE AGENCY REPRESENTATIVE

Liz Dudek, Secretary, AHCA
Molly McKinstry, AHCA
Polly Weaver, AHCA
Charlotte Curtis, DOH
Susan Rice, DOEA
Gerry Driscoll, APD
Robert Anderson, DCF
Fred Chaplain, DFS
Darcy Abbott, AHCA
Jackie Beck, DCF
David Oropallo, AHCA
Shaddrick Haston, AHCA
Captain David Brockner, OAG

**MEMBERS PRESENT BY
TELECONFERENCE**

Bob Sharpe
Michael Bay

**EXECUTIVE OFFICE OF THE
GOVERNOR**

Michael Joos

MEMBERS ABSENT

None

STAFF

Susan Kaempfer
Rafael Copa

Call to Order, Welcome and Roll Call

The meeting was called to order at 8:00 am by Dr. Larry Polivka, Chair. Dr. Polivka welcomed all members and the public.

Dr. Polivka introduced Deputy Secretary McKinstry who reviewed housekeeping items and recognized the state agency representatives. She introduced Secretary Dudek who thanked members for their participation and dedication to Phase II of the Assisted Living Workgroup.

Dr. Polivka opened the meeting for public comment. The following individuals addressed the workgroup.

Carol Berkowitz, LeadingAge Florida. Ms. Berkowitz provided comments on the concept of a floating license. The floating license will allow continuing care and fee for service retirement communities to obtain an assisted living facility license to use in independent living units on campus for the purpose of allowing residents to age in place. The community could request a standard or limited nursing assisted living floating license for up to 25% of apartments designated for independent living. The number of “floating” beds would be added to the existing license to avoid the need for a second license.

Discussion: There was discussion regarding the advantages and disadvantages of the proposal. Dr. Polivka asked Ms. Berkowitz to make a formal recommendation to the AL workgroup regarding the floating license.

Chris Nickerson, Acadamus Training LLC. Mr. Nickerson provided comments on training standards for assisted living facilities. Acadamus recommends that a clear set of comprehensive standards exist for individuals, companies and training providers. He added that standards must have enforcement oversight procedures that ensure accountability throughout the industry.

Dr. Polivka asked Mr. Nickerson to make a formal recommendation to the AL workgroup regarding training standards.

Alberta Granger, Florida Assisted Living Association (FALA). Ms. Granger provided comments on FALA's position on issues related to assisted living facilities. She stated that FALA opposes the following: pre-admission screening for residents, a formal appeal process, increasing required activities, assisted living staff not being allowed to be the representative payee for residents, the anonymous method for complaints, the prohibition of a lifetime ban on assisted living facility involvement relating to previous employment and binding information in resident contracts.

Dr. Polivka requested a copy of her materials and asked Ms. Granger to provide comments in the form of a recommendation.

Alfonso Martin, ALF Trainer. Mr. Martin is one of 34 assisted living administrator Core trainers in Florida. He commented on his experiences as a trainer specifically for persons who

are not English speaking. He provided information on the ALF competency exam and the pass/fail rate for trainees. Mr. Martin is interested in the negotiated rule-making process as it relates to Core training, medication administration training and the development of a new competency exam.

Discussion: The workgroup discussed training issues including qualified trainers, the length of training and topics, translating from English to Spanish, how the state of Wisconsin administers training, nursing home administrator training and qualifications for ALF administrators.

Henry Parra, Assisted Living Member Association (ALMA). Mr. Parra is the owner of Genesis Care Centers and Founder of the Assisted Living Member Association, a professional organization that informs and advocates for its 300+ members (owners and administrators of small ALFs in South Florida). Mr. Parra commented on the following: ALF residents who are Medicaid recipients, funding for appropriate care, ALFs being used as a jail diversion for prisoners, the costs of Core training and the fire code/evacuation capability assessments.

Discussion: The workgroup discussed the administrator's authority to admit or not admit residents, ALF "dumping" and mental health issues of residents.

Kristine Carleson. Ms. Carleson is employed by Rebels Drop-in Center, Memorial Regional Hospital, Out-patient Behavioral Health, Hollywood, Florida. Ms. Carleson commented on: ADM Planning Councils which are consumer directed councils, peer specialists who have personal experience with mental health issues, supportive housing options and limited mental health training. She stated that she personally visited 30 limited mental health facilities and her general observations were that the residents are a vulnerable population with no voice who are fearful of repercussions of speaking out about their situations.

Discussion: The workgroup discussed issues with the community mental health centers, the FACT team, case management, and community living support plans. There was a request from Ms. Lenderman that the managing entity or DCF circuit personnel begin spot checking or monitoring the required community living support plans. Ms. Beck concurred.

Laura Leite, Regional Ombudsman. Ms. Leite provided comments on discharge protection and resident activities in assisted living facilities. She stated that discharge protection is critical in assisted living facilities and that this vulnerable population is frequently without support. She believes residents are reluctant to speak up as they are fearful of retaliation and/or of being discharged. She is concerned about residents who have no other activity except to watch television all day long. She stressed that residents should have choices about being engaged in meaningful activities.

Jose Duosso. Mr. Duosso has owned four ALFs in the Miami-Dade County area for twenty years. He commented on problems with ALF training and expenses associated with operating assisted living facilities.

Janis McCord, DCF, Adult Protective Services. Ms. McCord provided comments on the difficulty that adult protective services workers encounter when placing a vulnerable adult in an assisted living facility with temporary emergency shelter (TES) funds. There is a lack of TES funds available when a vulnerable adult needs to be removed from an abusive situation.

Discussion: The workgroup discussed services for disabled adults and the elderly relating to abuse, neglect and exploitation.

Mr. Anderson stated that there is a \$203,000 appropriation for temporary emergency shelter and further stated there is a large gap in services for disabled adults, 18-59 years of age.

Follow-up Action Items

Susan Rice, Department of Elder Affairs. Ms. Rice reported on the progress of the ALF Negotiated Rulemaking Committee. As of July 26, 2012, the Negotiated Rulemaking Committee discussed and voted on rule amendments in the areas of: training and the Core test, training providers, staffing and admission, continued residency, record-keeping and repealing the requirement to memorialize the circumstances surrounding a “major incident.”

Discussion: Ms. Rice clarified that the negotiated rule-making process consists of a committee that begins with rule development and drafts language which is adopted and agreed upon. She stated almost all votes have been unanimous. A final report is expected to be submitted to the Department of Elder Affairs by August 15, 2012. The draft language will then be used for the rule-making phase of promulgation and will begin with workshops and end with final adoption.

Ms. Lenderman expressed caution about repealing major incidents so substantive issues are not lost.

There was discussion of how often the AHCA Form 1823 should be updated and further discussion about TB testing and the cost of testing.

Representative Hudson commented on how to follow-up and correct inadequate trainers.

Dr. Polivka complimented Ms. Rice and DOEA on the work that has been completed thus far and asked her to identify issues the Assisted Living Workgroup should address regarding negotiated rule-making.

Discussion of Phase II Issues

Dr. Polivka began the discussion of the following Phase II issues which need final adoption by the Assisted Living Workgroup:

Appendix E

ALF Administrator Qualifications

1. Create a workgroup of providers and stakeholders to evaluate the current educational requirements and curriculum for certification as an administrator of an ALF, education and training requirements for staff, continuing education requirements, and training/education requirements for administrators and staff of specialty licensed ALFs. Dr. Polivka began the discussion by suggesting that an assisted living policy council be created to address on-going and long-term issues.

Discussion: Dr. Polivka suggested the formation of an ALF Policy Council to continue the work of the Assisted Living Workgroup. Representative Hudson asked about the make-up of the council and suggested that appointments be made by the Speaker of the House, President of the Senate and Governor. He further suggested that a member of the law enforcement community be appointed by the Governor to address jail diversion and safety.

Motion: The Assisted Living Workgroup supports legislation to form an ALF Policy Council to continue to address issues identified by the workgroup. The ALF Policy Council should meet on a permanent, on-going basis. **PASSED**

2. Require administrators to have a two year mentorship under an ALF administrator with no Class I or II violations.

Discussion: The workgroup discussed the logistics and practicality of this requirement as well as the differences between nursing home administrator qualifications and assisted living facility administrator qualifications. Ms. Solano stated that assisted living facilities are a social model and are not nursing homes. Members inquired about the definition or intent of a mentorship and Dr. Polivka clarified that it was to be used as a resource. Representative Hudson expressed concern that it may exclude or shut out individuals from participating and Mike Bay added that he requires managers to work under his tutelage for six months prior to taking the Core training. Mr. Crochet asked about facilities that are not members of associations and further discussion proceeded.

Motion: The Assisted Living Workgroup recommends that the provider community and assisted living facility associations develop protocols for administrator mentorship programs for assisted living facilities with no Class I or II violations in the past two years. **PASSED**

3. Increase administrator requirements for an ECC facility. Allow a registered nurse license to satisfy the requirement. **REJECT**
4. Create ALF administrator licensure with a Department of Health board to track and monitor discipline and Core training. No exceptions for small facilities.

Motion: The Assisted Living Workgroup recommends that the Legislature create a professional board with regulatory responsibility for assisted living facility administrators. **PASSED**

5. If there are increased requirements for ALF Administrators, consider accepting licensure as a nursing home administrator or a registered nurse to satisfy requirements. **REJECTED**
6. Prohibit facility administrators from owning or serving as administrator of any facility if an action to revoke or deny a license is upheld at a facility where they were previously employed. **REJECTED**

After much discussion from all members this recommendation was not passed.

Appendix F

Licensure

1. Seek legislative changes to s. 429, F.S. that are resident-care focused (Alzheimer's secured units, safekeeping of residents funds) and ensure that regulations are appropriately and consistently enforced (keep violations in s. 429, F.S.) yet streamlined where appropriate (advertising – use of “ALF”, combined adverse incidents reporting). **TABLED; CLARIFICATION IS NEEDED**
2. Revise regulations to be appropriate for specific persons served in an ALF including persons with serious mental illness and those serving geriatric or medical needs. **TABLED; CLARIFICATION IS NEEDED**
3. The ALF licensure and regulatory provisions be placed back into Part I of s. 429, F.S. **REJECTED**

Discussion: Dr. Polivka asked about the substantive issues of the recommendation. Secretary Dudek and Deputy Secretary McKinstry provided information regarding the intent and history of streamlining and combining Core licensing requirements in 2006.

4. Examine the current array of ALF specialty licenses and determine if they are still needed or should be modified. **TABLED**
5. Evaluate expectations for quality of life and care in an ALF. Focus cannot be limited to physical health and safety – it must extend to other quality of life factors, including staff that are kind and focused on the individual wants/needs of each resident. Consider questions raised during public testimony “Would I want to live in this facility?” or “Would I place my mother in this facility?” No lower expectation should exist for other individuals. **ADOPTED AS CONSENSUS**

Discussion: The workgroup discussed the need to focus on residents and the Agency's resident focused survey.

Appendix G

Resident Admission; Resident Discharge; & Resident Safety and Rights

1. 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. Address hospitals that do not consider the individual's preferences and community integration in discharge planning. **PASSED**

Discussion: The workgroup discussed discharge planning and the 45 day notification requirement for discharges.

2. Adopt an ALF pre-admission screening process implemented by an independent body (a simplified and expedited version of PASRR). This "single point of contact" would permit choice counseling and referral to an ALF most appropriate to align with the individual resident needs. **TABLE AND INTEGRATE WITH #1 ABOVE**
3. Enact legislation that provides ALF residents a formal appeal process for disputed discharge. **PASSED**
4. Afford ALF residents discharge protection that mandates specific reasons for relocation, provides ample notice to residents, and provides residents with an administrative appeal hearing. **PASSED**
5. Increase amount and quality of activities made available to ALF residents. Require ALFs to seek out individualized activities and services independent of the facility that are chosen by each resident and expedite participation in these activities and services. Activities must be meaningful activities and allow residents the opportunity for productive learning, life skills, and job experience. This may include meaningful part-time work or volunteer activities, depending on the preferences of the resident. Some structured and meaningful activities can be provided in the ALF, but those integrated in the community with non-disabled persons should be encouraged. **TABLED**
6. Examine ALF staffing ratios. **TABLED**

Discussion: The workgroup discussed that this issue is being addressed by the negotiated rule-making workshop.

Meeting Summary, Next Steps & Adjourn

Dr. Polivka suggested ending the meeting in order to accommodate members' schedules. The workgroup discussed options to complete Appendix G items (7-11) as well as additional Phase II recommendations in preparation for the legislative session. Members agreed that it may be necessary to have an additional meeting.

Representative Hudson encouraged the workgroup to take ample time with issues and suggested that the workgroup has latitude with the legislative schedule.

The meeting adjourned at 1:04 pm.