



CHARLIE CRIST  
GOVERNOR

HOLLY BENSON  
SECRETARY

July 1, 2009

Dear Assisted Living Facility Administrator:

During the 2009 Florida Legislative session, new laws were enacted that affect assisted living facility providers in this State. The primary legislation affecting assisted living facilities is Senate Bill 1986 (SB 1986). Most provisions of SB 1986 take effect July 1, 2009.

This bill does the following:

- Eliminates the intergenerational respite care assisted living facility pilot program.
- Provides for information sharing via the Agency's Internet site as it pertains to unlicensed facilities, but eliminates the requirement for local unlicensed work groups.
- Conforms definitions for classifications of deficiencies to the classifications located in 408.812, Florida Statutes (F.S.), and expands the requirement to post information regarding facilities that have been sanctioned or fined for violation of state standards.
- Eliminates the requirement to obtain a State Certificate of Exemption and pay a fee for clinical laboratories that perform only waived tests. Assisted Living Facilities that perform waived tests will continue to be regulated by the federal CLIA program, which is administered by the Agency.
- Adverse incidents reporting has changed as follows:

Abuse, neglect, and exploitation are no longer part of the definition of an adverse incident; however, they must still be reported to Department of Children and Families, as required by law.

Events reported to law enforcement for investigation are considered adverse incidents if they relate to an event over which facility personnel could exercise control rather than as a result of the resident's condition.

Elopement is considered an adverse incident if the elopement places the resident at risk of harm or injury.

Enrollment information for submitting adverse incident reports online is enclosed.



- Eliminates language related to certain Agency intervention for resident assessments and appropriateness of placement of Assisted Living Facility residents.

Changes were made as follows under Chapter 408, Part II: Health Care Licensing for all provider types regulated by the Agency, with the following of specific interest for assisted living facilities:

- The definition of change of ownership is changed to: “An event in which the licensee sells or otherwise transfers its ownership to a different individual or legal entity as evidenced by a change in federal employer identification number; or an event in which 51% or more of the ownership, shares, membership, or controlling interest of a licensee is in any manner transferred or otherwise assigned.” This does not apply to a licensee that is publicly traded on a recognized stock exchange. The requirement for all licensed providers to routinely submit affidavits of voluntary board members is eliminated, although the Agency may still require documentation be submitted, as needed.

Applications will be returned if submitted more than 120 days prior to expiration or the requested effective date.

- Additional offenses have been added as disqualifying for persons who require background screening and apply to persons hired after October 1, 2009. A person who serves as a controlling interest or is an employee on September 30, 2009 will not have to be rescreened if they have previously met the background screening requirements. However, if they have one of the new disqualifying offenses on their record, they may apply for an exemption from the Agency or the appropriate board prior to September 30, 2009. A listing of these additional disqualifying offenses can be found in of the bill.
- Any information required to be reported to the Agency must be submitted within 21 calendar days after the report period or effective date of the information, whichever is earlier. This includes, but is not limited to, any change of information contained in the most recent application for licensure and required insurance or bonds.
- Providers must notify the resident and their representatives, if any, where to report Medicaid fraud prior to any services being rendered. The Agency shall provide a written description of Medicaid fraud and the toll-free number to call as follows:

*Medicaid Fraud* means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to him or herself or some other person. It includes any act that constitutes fraud under applicable federal or state law as it relates to Medicaid. The office of the Inspector General at the Agency for Health Care Administration accepts complaints regarding suspected fraud and abuse in the Florida Medicaid system by phone at 1-888-419-3456 or on the Agency web site at [http://ahca.myflorida.com/Executive/Inspector\\_General/medicaid.shtml](http://ahca.myflorida.com/Executive/Inspector_General/medicaid.shtml).

- Additional grounds are authorized for denial of applications if the applicant or a controlling interest has been convicted, plead guilty or no contest for a felony under

chapter 409, chapter 817, chapter 893, 21 U.S.C. ss. 801-970, or 42 U.S.C. ss. 1395-1396, or has been terminated for cause from the Federal Medicare or Medicaid programs. Certain timeframes apply.

- A safety liaison must be designated as the primary contact for emergency operations, and licensees providing residential or inpatient services must utilize an online database approved by the Agency to report information to the Agency regarding the provider's emergency status, planning, or operations. This system is the Emergency Status System, available at <http://ess.myflorida.com>.

This bill also contains information that addresses issues of Medicaid Fraud and we encourage you to review.

To access the full text of these new laws, please visit: <http://laws.flrules.org/2009>.

If you have any questions regarding adverse incidents please contact the Risk Management & Patient Safety Program at (850) 414-8075. For questions regarding licensing changes, please contact the Long Term Care Unit, Assisted Living Section at (850) 487-2515.

Sincerely,

Bernard E. Hudson  
Unit Manager  
Long Term Care