

Assisted Living Facilities in Florida

Assisted living facilities (ALFs) began in Florida with the legislature's 1975 adoption of the Adult Congregate Living Facilities (ACLF) Act. Since that time, amendments to the ACLF Act created specialty licenses that expanded the list of allowed services beyond basic personal services. In 1987, the legislature authorized ACLFs to provide "limited nursing services" (LNS). In 1989, "limited mental health services" (LMH) were authorized. In 1991, the legislature authorized ACLFs to provide "extended congregate care services" (ECC). In 1995, ACLFs were renamed "assisted living facilities" (ALF). In 2006, the regulation of ALFs was transferred from Chapter 400, F.S., to part I of Chapter 429, F.S., and named the Assisted Living Facilities Act.

Today, Florida Statute defines an *assisted living facility* as any building or residential facility that provides "housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator." When it created the Assisted Living Facilities Act in 2006, the Florida Legislature sought to promote the availability of services for elderly persons and adults with disabilities "in the least restrictive and most homelike environment, to encourage the development of facilities that promote the dignity, individuality, privacy, and decision-making ability of such persons."

ALF Services

Today, Florida ALFs range in size from one resident to several hundred and can include individual apartments or rooms that a resident shares with another person. Basic ALF services include:

- Housing, nutritional meals, and special diets
- Help with the activities of daily living (bathing, dressing, eating, walking)
- Giving medications (by a nurse employed at the facility or arranged by contract)
- Assisting residents to take their own medications
- Supervising residents
- Arranging for health care services
- Providing or arranging for transportation to health care services
- Health monitoring
- Respite care (temporary supervision providing relief to the primary caregiver)
- Social and leisure activities

Some ALFs arrange or directly provide these services to their residents. Others require the resident to arrange their own services as agreed upon in the contract between the resident and the facility. An ALF may employ or contract with a nurse to take vital signs (blood pressure, pulse, respiration, and temperature), manage pill organizers, give medications and keep nursing progress notes. A resident can also contract with a licensed home health care provider for nursing and other health care services, as long as the resident's needs do not exceed what is allowable in that assisted living facility or what is specified in the resident's contract with the assisted living facility.

If an ALF in Florida would like to provide any services beyond those allowed in the standard license, it must acquire a “specialty” license. These licenses allow the ALF to accept residents who need more advanced nursing or mental health care. The specialty licenses include:

Limited Nursing Services: A limited nursing services (LNS) specialty license enables an ALF to provide, directly or through contract, a select number of nursing services in addition to the personal services that are authorized by the standard license. The nursing services authorized to be provided under this license may only be provided as authorized by a licensed practitioner’s order. A nursing assessment that describes the type, amount, duration, scope, and outcomes of services, and the general status of the resident’s health, is required to be conducted at least monthly on each resident who receives a limited nursing service. An LNS licensee is subject to monitoring inspections by the AHCA or its agents at least twice a year.

An ALF with a limited nursing services license provides the basic services of an assisted living facility as well as additional nursing services. Some of the limited nursing services are:

- Nursing assessments
- Care and application of routine dressings
- Care of casts, braces, and splints
- Administration and regulation of portable oxygen
- Catheter, colostomy, and ileostomy care and maintenance
- Application of cold or heat treatments, passive range of motion exercises, ear and eye irrigations

Limited Mental Health: 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.

A limited mental health license must be obtained if an assisted living facility serves three or more mental health residents. The LMH license requires basic staff training in mental health issues and requires the ALF to

- ensure that the resident has a community living support plan,
- provide assistance to the resident in carrying out the plan, and
- maintain a cooperative agreement for handling emergency resident matters.

There may be residents with severe and persistent mental illness who have a Department of Community Affairs (DCF) case manager but do not otherwise meet the definition of a mentally ill ALF resident. Since the specialty license is only required if the ALF has three or more “mental health residents”, a facility can serve one or two mental health residents without a Limited Mental Health license (no requirement for mental health training of staff or assistance with the community licensing support plan).

Pursuant to 394.4574, F.S., the Department of Children and Families must assure that:

- A mental health resident has been assessed by a psychiatrist, clinical psychologist, clinical social worker, or psychiatric nurse to be appropriate to reside in an assisted living facility,
- A cooperative agreement to provide case management, as required in s. s. 429.075 F.S, is developed between the mental health care services provider and the administrator of the ALF-LMH,
- A case manager is assigned for each mental health resident,
- The community living support plan, as defined in s. 429.02 F.S. has been prepared by a mental health resident and a case manager in consultation with the administrator of the facility, and
- The ALF is provided with documentation that the individual meets the definition of a mental health resident.

Each DCF Circuit Administrator develops, with community input, annual plans that demonstrate how the district will ensure the provision of state-funded mental health and substance abuse treatment services to residents of ALF-LMH facilities.

Extended Congregate Care: An assisted living facility with an extended congregate care license provides the basic services of an assisted living facility as well as:

- Limited nursing services and assessments
- Total help with bathing, dressing, grooming and toileting
- Measurement and recording of vital signs and weight
- Dietary management, including special diets, monitoring nutrition and food and fluid intake
- Supervision of residents with dementia and cognitive impairments
- Rehabilitative services
- Escort services to medical appointments
- Educational programs to promote health and prevent illness

An ALF is required to perform and document a monthly assessment for residents who are receiving nursing services, including any substantial changes in the resident's status which may indicate the need for relocation to a nursing home, hospital or other specialized health care facility.

The ALF is required to notify a licensed physician within 30 days when a resident exhibits signs of dementia or cognitive impairment, or has a change of condition, in order to rule out the presence of an underlying physical condition that may be contributing to the dementia or impairment.

The owner or administrator of a facility is responsible for determining the appropriateness of admission to the facility and for determining the appropriateness of a resident's continuing stay in the facility.

The Comprehensive Assessment and Review for Long-Term Care Services (CARES) program performs the federally mandated function of conducting nursing home pre-admission screening and assessment for Medicaid long term care programs. Persons who are applying for Medicaid-funded nursing home care are assessed by a CARES nurse or social worker, with medical review by a physician prior to approval. One of the program's functions is to assist eligible Floridians in obtaining home and community services to avoid nursing home care. Another function is the continued education of the public, particularly health care providers, about less costly alternatives for long term care.

Medicaid reimbursement for assisted living services is limited to people who are eligible to participate in waiver programs or receive assistive care services. The Nursing Home Diversion Program is designed to provide home and community based services to older persons assessed as being frail, functionally impaired and at risk of nursing home placement. An array of long term care services, Medicaid-covered medical services and Medicare services are coordinated and delivered through managed care organizations (MCOs) contracted with the Department of Elder Affairs.

The facility is required to provide 45 days notice of the need for relocation or termination of residency unless, for medical reasons, the resident is certified by a physician to require an emergency relocation to a facility providing a more skilled level of care, or the resident engages in a pattern of conduct that is harmful or offensive to other residents.

ALF Statistics

Since 2003, the number of Florida ALFs has grown by nearly a third (30.28%). In 2003, a Florida ALF was most likely to be mid-sized (25 beds or less) and serving a diverse resident population as indicated by the number of beds dedicated to extended congregate care (ECC) for medically complex residents, and the indigent as measured by participation in the Optional State Supplementation (OSS) program.

	# of ALFs	# of Beds	# ALFs w ECC Beds	# ECC Beds	# ALFs w OSS Beds	# OSS Beds
2003	2,272	76,714	398	18,853	1,176	14,171
2004	2,275	74,788	346	17,967	1,179	14,100
2005	2,291	74,282	327	16,144	1,205	13,992
2006	2,340	74,317	312	15,316	1,206	13,881
2007	2,442	75,958	306	15,064	1,249	14,161
2008	2,643	77,338	302	16,124	1,367	14,665
2009	2,783	79,302	306	16,882	1,454	15,436
2010	2,850	81,027	308	16,976	1,505	15,709
2011	2,960	82,951	277	14,480	1,521	15,686

In 2011, Florida ALFs are increasingly small (the majority now house six or fewer beds) and serve an increasingly diverse population after increases in the number of LMH and OSS beds. The number of Florida ALFs serving the limited mental health population increased by over

80% from 2003 to 2011. The number of facilities with OSS beds increased by nearly 30% during the same time period.

The steady increase in the annual total of licensed ALFs (as shown above) understates the impact of new licensees each year. While Florida has had an average annual net increase of 86 new ALFs since 2003, the Agency has also approved an annual average of 125 changes of ALF ownership during the same period. Data gathered since 2009 also documents that an average of 125 ALFs have been failing to renew their licenses each year. This pattern is continuing based on year-to-date information for 2011. All of these factors result in more than a 10% turnover of newly licensed ALFs each year.

	% Incr. # ALFs	% Incr. # Beds	% of ALFs ≤ 6 Beds	% of ALFs ≤ 25 Beds	% ALFs w LMH Beds	% ALFs w ECC Beds	ECC Beds as % of Total	% ALFs w OSS Beds	OSS Beds as % of Total
2003			37%	65%	27%	18%	25%	52%	18%
2004	0%	-3%	38%	66%	33%	15%	24%	52%	19%
2005	1%	-1%	37%	68%	34%	14%	22%	53%	19%
2006	2%	0%	41%	67%	35%	13%	21%	52%	19%
2007	4%	2%	43%	67%	36%	13%	20%	51%	19%
2008	8%	2%	47%	69%	38%	11%	21%	52%	19%
2009	5%	3%	50%	70%	38%	11%	21%	52%	19%
2010	2%	2%	52%	73%	38%	11%	21%	53%	19%
2011	4%	2%	52%	72%	37%	9%	17%	51%	19%

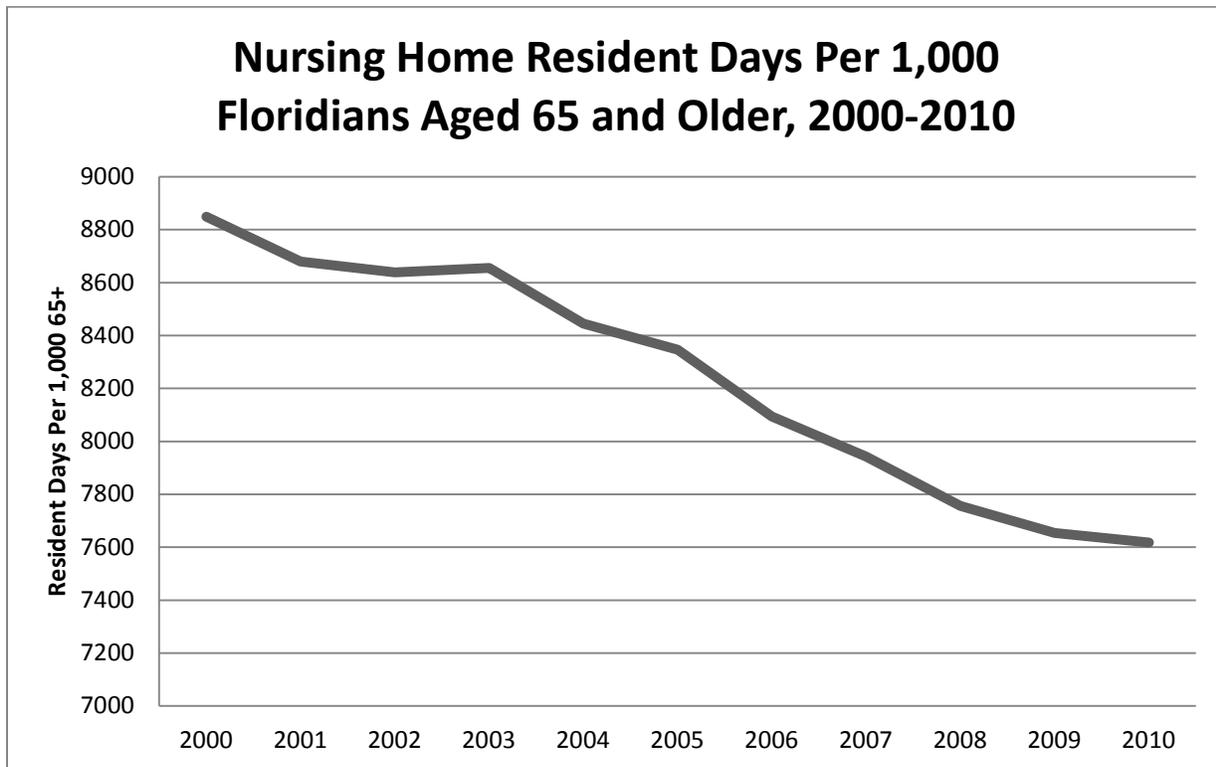
ALF Residents

The original Florida ACLFs began as residential homes for elderly or developmentally disabled residents who needed limited assistance with daily tasks such as bathing, meals or medications. However, a detailed picture of current ALF residents is very difficult to create due to the lack of data. Assisted living's role as a less intensive residential alternative to skilled nursing facilities has been and continues to be based on assumptions about the resident population: they are those too frail to live alone but not yet in need of full-time skilled nursing care.

This attitude may be changing as the potential interest in resident protection grows. What is clear from existing sources is that the number of very small facilities is increasing rapidly, as is the mental health population. Both of these trends have major implications for assisted living facilities. Regulating a large facility of generally healthy seniors requires a different approach than regulating a five-bed facility serving primarily LMH residents.

We presume that Florida ALFs are also housing people who once would have been more likely to live in skilled nursing facilities. While there is no Florida data source that can specifically document this trend, it is widely assumed. One of the main reasons for the assumption is the decrease in nursing home utilization that has occurred since 2000. Though the statewide average percent occupancy in nursing homes has remained relatively constant between 85 and

88 percent, the state's elder population has been growing and aging, masking the actual decline in nursing home utilization. The following graphic illustrates the decline by showing a steady drop in statewide nursing home resident days per 1,000 Floridians aged 65 and older.



This drop occurred during a statewide moratorium on the addition of new nursing home beds. When the moratorium began in 2001, there was an expectation, based on the use rates of the 1990s, that Florida nursing homes would be overcrowded by now. The fact that overcrowding has not occurred while the elder population has been growing leads many to conclude that ALFs are housing more frail individuals with diverse and complicated medical issues.

ALF Regulation

The Agency for Health Care Administration currently licenses over 40,000 services and facilities including:

- ▶ Abortion Clinics
- ▶ Adult Day Care Centers
- ▶ Adult Family Care Homes
- ▶ Ambulatory Surgery Centers
- ▶ Assisted Living Facilities
- ▶ Birth Centers
- ▶ Clinical Laboratories
- ▶ Crisis Stabilization Units
- ▶ Health Care Service Pools
- ▶ Home Medical Equipment Providers
- ▶ Homemaker Companion Organizations
- ▶ Homes for Special Services
- ▶ Hospices
- ▶ Hospitals
- ▶ Intermediate Care Facilities for the Developmentally Disabled
- ▶ Nurse Registries
- ▶ Skilled Nursing Facilities (Nursing Homes)
- ▶ Prescribed Pediatric Extended Care Centers

- ▶ Health Care Clinics
- ▶ Home Health Agencies
- ▶ Health Maintenance Organizations
- ▶ Residential Treatment Facilities (Mental Health)
- ▶ Short Term Residential Treatment Facilities (Mental Health)
- ▶ Transitional Living Facilities

Agency licensure activities include processing initial, renewal and change of ownership applications; conducting licensure and complaint inspections; monitoring and citing violations; and sanctioning providers and facilities when serious or repeat violations are identified. The conduct of these duties the Agency each year processes approximately:

- ▶ 16,000 licensure applications
- ▶ 200,000 background screenings
- ▶ 8,000 complaints
- ▶ 21,000 inspections and investigations
- ▶ 1,900 financial reviews
- ▶ 160,000 consumer calls
- ▶ 2,300 public information requests

The goal of these activities is to assure compliance with the laws and regulations that safeguard Florida's health care consumers. However, when the regulations are violated, the law specifies when sanctions are imposed and requires the consideration of several factors prior to imposing a penalty. In 2010, Agency's Division of Health Quality Assurance imposed sanctions (by final order) including:

- ▶ 3,900 cases
- ▶ \$5,728,778 in fines
- ▶ Denial of 94 provider applications
- ▶ Imposition of 14 emergency moratoria (suspend admissions)

Historically, few of the violations cited by the Agency result in patient or resident harm and most are corrected expeditiously. However, any licensee that refuses or fails to achieve regulatory compliance risks closure, license revocation, denial of the renewal license or denial of a change of ownership to a new operator.

The regulation of assisted living facilities is governed by licensure statutes and rules:

- Basic requirements that are shared with other regulated health care facilities are found in Chapter 408, Part II, Florida Statutes and Chapter 59A-35 of the Florida Administrative Code.
- Requirements that are specific to assisted living facilities are found in Chapter 429, Part I, Florida Statutes and Chapter 58A-4, Florida Administrative Code.

The Agency's approach to facility regulation centers on: identifying problems (through surveys, complaints or self-reporting); pinpointing their underlying cause(s); ensuring the facility has a plan to mitigate those causes and ensuring the facility effectively implements its plan.

The following tables provide basic statistics about regulatory actions the Agency has taken in ALFs. The first table shows the number of regulatory visits made by field staff in ALFs over the last five fiscal years. The visits include routine surveys, follow-up surveys and complaint investigations.

	FY 06/07	FY 07/08	FY 08/09	FY 09/10	FY 10/11
Number of Visits	6,274	6,892	6,060	6,455	6,327

Regulatory citations are documented in a Statement of Deficiencies sent to the licensee. Deficiencies are documented with a classification and scope to represent the severity of risk to residents on a scale of I to IV, Class I being most serious and Class IV being minor with no concern of resident risk. The most serious deficiencies are classified as “Class I” if they represent immediate danger to clients or a substantial probability of death or serious harm. Classification is defined in Health Care Licensing Procedures Acts section 408.813, F.S. and is uniform across all health care providers licensed by the Agency, except nursing homes which are aligned with the federal definitions.

Classification of is defined in s. 408.813 (2), F.S. as:

(a)Class “I” violations are those conditions or occurrences related to the operation and maintenance of a provider or to the care of clients which the agency determines present an imminent danger to the clients of the provider or a substantial probability that death or serious physical or emotional harm would result therefrom. The condition or practice constituting a class I violation shall be abated or eliminated within 24 hours, unless a fixed period, as determined by the agency, is required for correction. The agency shall impose an administrative fine as provided by law for a cited class I violation. A fine shall be levied notwithstanding the correction of the violation.

(b)Class “II” violations are those conditions or occurrences related to the operation and maintenance of a provider or to the care of clients which the agency determines directly threaten the physical or emotional health, safety, or security of the clients, other than class I violations. The agency shall impose an administrative fine as provided by law for a cited class II violation. A fine shall be levied notwithstanding the correction of the violation.

(c)Class “III” violations are those conditions or occurrences related to the operation and maintenance of a provider or to the care of clients which the agency determines indirectly or potentially threaten the physical or emotional health, safety, or security of clients, other than class I or class II violations. The agency shall impose an administrative fine as provided in this section for a cited class III violation. A citation for a class III violation must specify the time within which the violation is required to be corrected. If a class III violation is corrected within the time specified, a fine may not be imposed.

(d)Class “IV” violations are those conditions or occurrences related to the operation and maintenance of a provider or to required reports, forms, or documents that do not have the potential of negatively affecting clients. These violations are of a type that the agency determines

do not threaten the health, safety, or security of clients. The agency shall impose an administrative fine as provided in this section for a cited class IV violation. A citation for a class IV violation must specify the time within which the violation is required to be corrected. If a class IV violation is corrected within the time specified, a fine may not be imposed.

The following table shows the number of violations cited in ALFs over the last five fiscal years.

	FY 06/07	FY 07/08	FY 08/09	FY 09/10	FY 10/11	Total
ALF Surveys	1,726	1,897	1,725	2,114	2,105	9,567
Class I	60	41	55	25	109	290
Class II	256	242	260	215	351	1,324
Class III	11,151	12,025	10,262	12,506	11,696	57,640
Class IV	1,878	2,362	1,257	1,577	731	7,805
Total Class Violations	13,345	14,670	11,834	14,323	12,887	67,059

Fiscal Year	ALF Fines Imposed by Final Order
06/07	\$872,860.16
07/08	\$815,073.27
08/09	\$683,892.83
09/10	\$636,555.50
10/11	\$776,238.44

The following table shows the annual number of ALF license revocations and suspensions from 2006 to the present. The table also contains facilities that we have denied a licensure application and the number of facilities that closed or failed to renew while an action against the license was pending.

	FY 06/07	FY 07/08	FY 08/09	FY 09/10	FY 10/11	Total
Suspensions	3	0	2	1	2	8
Revocations	3	5	4	12	7	31
Denials of Active Licenses	8	6	11	7	5	37
Closed or Failed to Renew with legal cases (subject of all Closed/Failed to renew)	38	34	37	40	46	195

Adverse Incident Reporting

Most state and national assisted living regulatory models include facility self-reporting of “adverse incidents” when a resident has experienced a significant accident or outcome. In Florida, ALFs are required by statute to report such adverse incidents to the Agency. Florida’s assisted care adverse incidents are defined in statute (Section 429.23 F.S.) as:

(a) An event over which facility personnel could exercise control rather than as a result of the resident’s condition and results in:

- 1. Death;*
- 2. Brain or spinal damage;*
- 3. Permanent disfigurement;*
- 4. Fracture or dislocation of bones or joints;*
- 5. Any condition that required medical attention to which the resident has not given his or her consent, including failure to honor advanced directives;*
- 6. Any condition that requires the transfer of the resident from the facility to a unit providing more acute care due to the incident rather than the resident’s condition before the incident; or*
- 7. An event that is reported to law enforcement or its personnel for investigation; or*

(b) Resident elopement, if the elopement places the resident at risk of harm or injury.

A facility is required to file a preliminary report with the Agency within one business day after the occurrence of an incident that appears to match one of the definitions above. The facility then has 15 days to complete its investigation of the incident and file its final report. This report must include a detailed description of the findings of the investigation. The facility is also required to report any cases of abuse, neglect or exploitation to the Department of Children and Families.

If an adverse incident report appears to describe any risk of a present and ongoing threat to residents, the report is referred to the Complaint Administration Unit in the Agency’s Division of Health Quality Assurance. Additionally, all adverse incident reports are provided to the Consumer Services Unit in the Department of Health Medical Quality Assurance to determine if a regulated health care practitioner has engaged in behavior which may warrant inquiry and possible action by a licensing board or the Department of Health. Florida’s adverse incident reporting program is limited, however, by debatable definitions of what constitutes an incident.

Civil Liability Claim Reports

When an assisted living facility is notified of a liability claim, section 429.23(5), F.S., requires the assisted living facility to, in turn, file a monthly report to the Agency. The report requires the name of the resident, dates of the incident and the type of injury or violation of rights alleged. The statute provides that the report is not discoverable in any civil or administrative

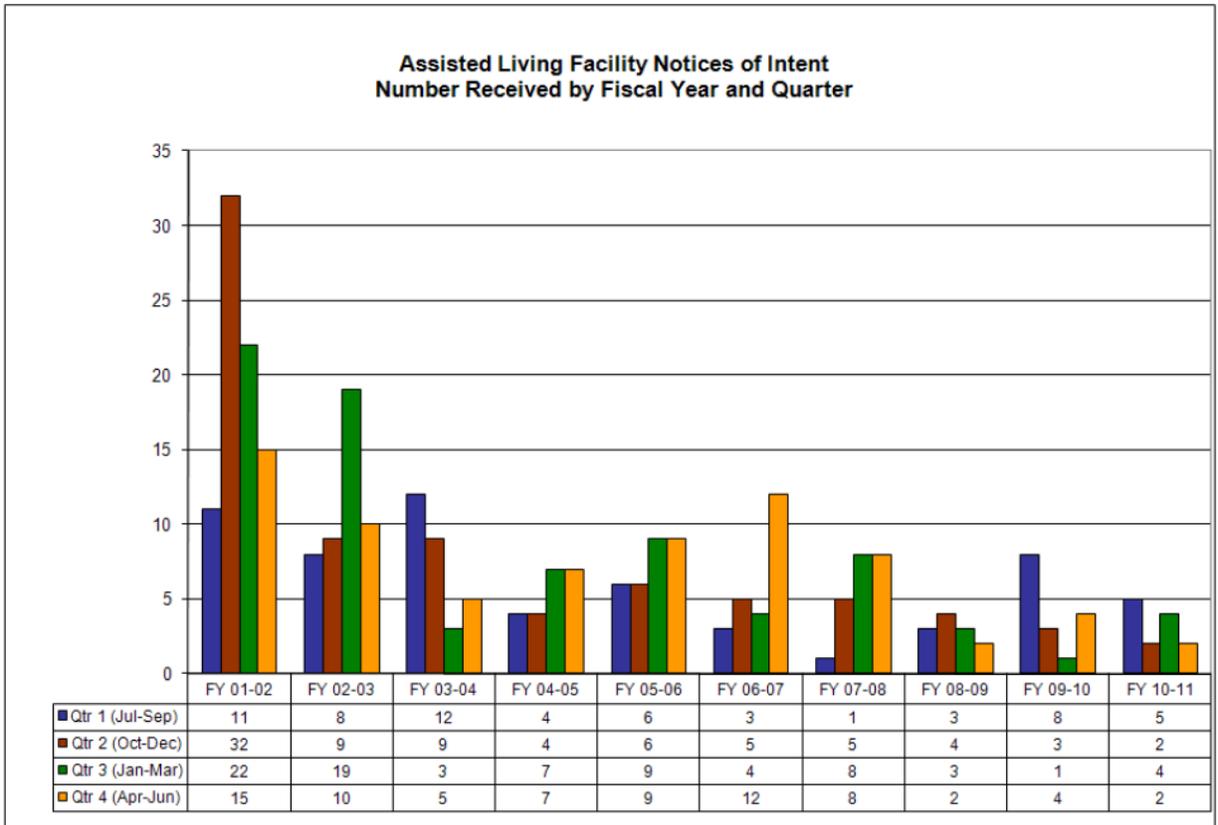
action. The Agency publishes a report on its website demonstrating monthly, quarterly and annual aggregate data of the number of liability claims intended to be filed against assisted living facilities in aggregate – no individual facility names may be provided. The report informs the Agency and the public (providers and consumers) of the number of intended claims filed against all assisted living facilities.

Information reported is not used in any regulatory manner and may be incomplete as only actively licensed ALFs are required to report. If a licensee receives litigation notice after they close or sell the facility, they are no longer obligated to report. Given the very low number of reported claims for almost 3,000 licensed facilities, there is concern that this information may be under reported.

Two reports are produced. One shows the number of intended liability claim reports by fiscal year and quarter from FY 01-02 through FY 10-11 and the second one, the number of intended claims filed calendar year January 2010 – December 2010.

The Agency began collecting information from nursing homes regarding civil litigation in May, 2001. Initial reporting included notices of intent (NOI) to litigate for civil cases. Generally an NOI serves to notify the facility licensee of a plaintiff's intent to sue for some cause of action. Once initiated, cases may be withdrawn, settled or move forward to litigation as represented by a civil complaint.

The following charts provide information about the NOIs and civil complaints reported to the Agency. Data changes over time if reports are submitted late or in error. The most recent liability claim reports are provided at the link below:
http://ahca.myflorida.com/MCHQ/Long_Term_Care/FDAU/docs/LiabilityClaims/ALF_Chart.pdf.



Punitive damages awarded from assisted living facility litigation must be equally divided between the claimant and the state Quality of Long Term Care Facility Improvement Trust Fund and collected by the Department of Financial Services as specified in 429.298(4), F.S. The Fund authorized in 400.0239, F.S., was created in 2001 to support activities and programs directly related to improvement of care of nursing homes and assisted living facility residents, however no deposits have been made to this fund from assisted living facility cases.

Roles of Government Agencies in Assisted Living

In addition to the regulatory oversight of licensure, several other government organizations are involved in assisted living facilities. The Agency works closely with each of these programs and communicates both at the local and headquarters offices. Primary agencies and their roles are described below followed by a chart of primary and other agencies involved in assisted living facilities.

Agency for Health Care Administration

- Health Quality Assurance: Licensing & Regulatory Oversight
- Medicaid: State Plan Reimbursement for Assistive Care Services (no reimbursement for residential ALF care), Medicaid Reimbursement through long term care waivers including Assisted Living and Nursing Home Diversion

Department of Elder Affairs

- Rule Development for Assisted Living and Adult Family Care Home
- Assisted Living Trainer Certification
- Comprehensive Assessment and Review of Long-Term Care Services (CARES) reviews Medicaid long term care placement
- Administration of the Nursing Home Diversion Medicaid Waiver
- Statewide Public Guardianship Office assists in guardianship services as appropriate
- State Long-Term Care Ombudsman Program State Long Term Care Ombudsman – Engages volunteer resident advocates to assist residents and families in dialogue with representatives of long term care facilities

Department of Children and Families

- Adult Protective Services – Investigates complaints of abuse, neglect or exploitation of vulnerable persons including those who live in long term care facilities
- Mental Health Clients in ALFs - assists in rule development for Limited Mental Health ALFs, facilitates case management for clients living in ALFs
- Specific Medicaid Waiver

Agency for Persons with Disabilities

- Developmentally Disabled Clients in ALFs
- Medicaid Developmental Disability Waiver clients in ALFs

Attorney General

- Medicaid Fraud Control Unit – The Attorney General's Office (AG) investigates allegations of Medicaid fraud. Administers the PANE Project, (Patient Abuse, Neglect and Exploitation), Operation Spot Check, and Attorney General staff may investigate abusive situations in long term care facilities.

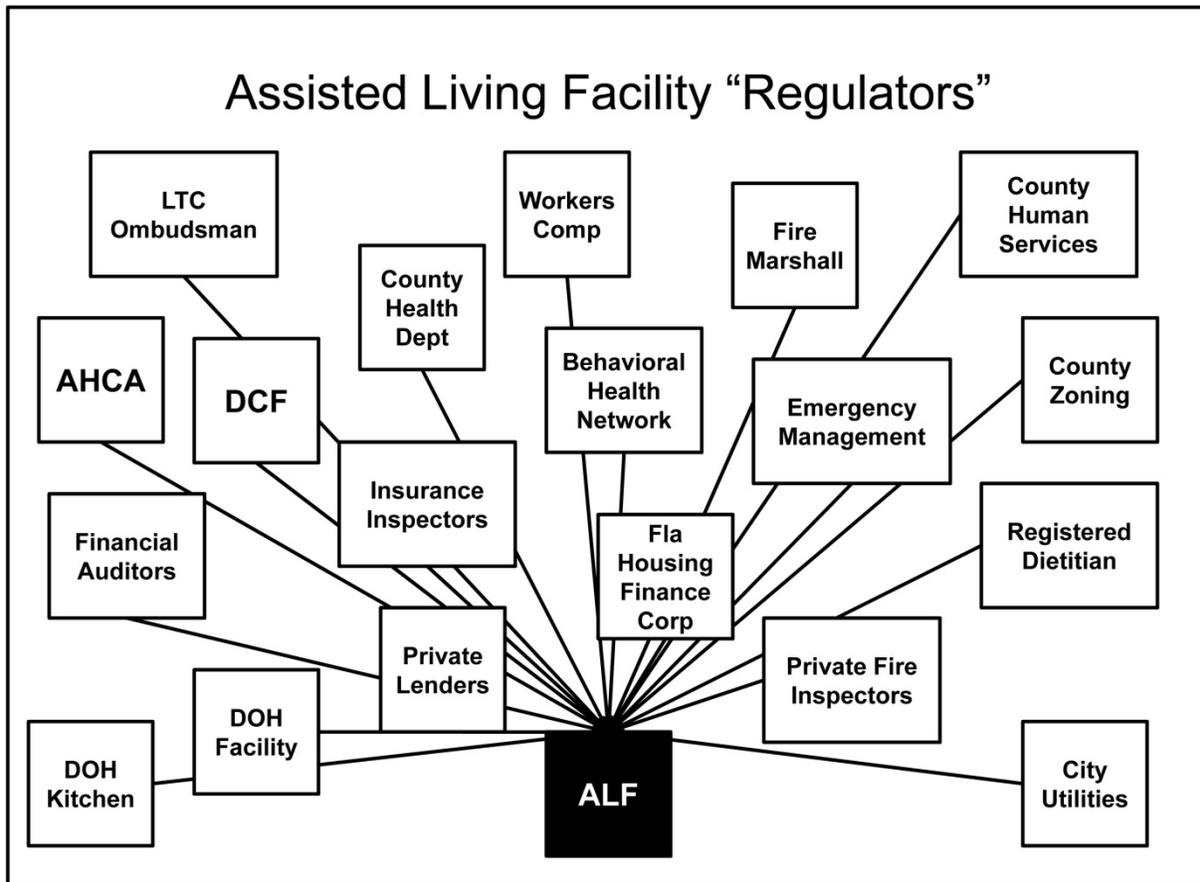
Department of Health

- Health & Sanitation Inspections
- Licensure & Regulatory Oversight of Health Care Practitioners working in Assisted Living Facilities

Local Authorities (ALF)

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

In addition to the other state agencies, there are a variety of state and local organizations that have some kind of regulatory authority over the operation of an ALF. The following illustration shows a number of the different types of organizations that may be viewed by assisted living licensees as having regulatory authority over some aspect of the operation of the facility.



Assisted Living Regulation in Other States

Nearly every state has experienced growth in similar types of “assisted living” facilities. Though use of the term “assisted living” is widespread, there is considerable state-to-state variation in the definition. The term is currently used by 41 states but refers to facilities licensed by states as personal care homes, residential care facilities, adult care homes, homes for the aged and other types of facilities. This variation in the definition of assisted living complicates any effort to compare regulatory approaches and outcomes across states.

Few states approach the regulation of assisted living facilities in the same manner. The Agency for Health Care Research and Quality (AHRQ) has found that while all states license and regulate what they call assisted living facilities, these regulations “differ significantly both within and among states, in part because of the lack of a uniform definition of assisted living.” In 1999, the U.S. Government Accountability Office (GAO) found that in general, “State reviews occur every 1 to 2 years, and the results of monitoring activities varied.” An AHRQ review of the Web sites of state licensing agencies found that 48 states post licensing regulations; 46 provide access to a database or list of licensed facilities; 12 post survey findings on their Web site; and 14 states

post a guide to help consumers learn about and choose a facility. Twenty six states offer information to facility administrators and staff on a Web site. The information ranges from licensing application and renewal forms, administrator requirements, bulletins, information about the survey process, technical assistance materials, and incident and complaint forms.

A quick look at assisted living facility regulation in other states illustrates the variation in approach:

California

California's Department of Social Services licenses what are known as "residential care facilities for the elderly" (RCFEs). The licensing agency no longer annually inspects RCFEs and now randomly selects and inspects 20 percent of the licensed facilities each year. The selection is structured to ensure that every facility is inspected at least every 5 years. Surveyors use a manual that guides the inspection process. The inspection includes interviews with residents and staff and record reviews. The surveyor determines the number of interviews he or she conducts at each facility. Standard protocols are not used. The State expects to make inspection reports available to the public on its Web site in the near future.

Legislation enacted in 2003 requires unannounced inspections of facilities that are on probation, have pending complaints, operate under a plan for compliance, or must have an annual inspection because the facilities receive payment from Medicaid. Inspectors also verify that residents who were required to move from the facility by the department are no longer at the facility.

Texas

The Texas Department of Aging and Disability Services (DADS) licenses assisted living facilities. Facilities are licensed and inspected annually. The inspection team consists of a registered nurse, social workers, and a life safety code specialist. During the inspection, surveyors meet with the person in charge, review the process, and request lists of residents and staff, schedules, training records, incident reports, policies and procedures, the services provided, and the facility's disclosure form. During a tour, the surveyor observes the general operation of the facility and resident activities. General interviews are held with a sample of residents, family members, and staff. A sample of resident records is also reviewed. Residents are asked if they are satisfied with the facility, the services, and food. If they are not satisfied, they are asked for details that may be explored with the manager. Survey reports may be posted at the facility or requested from the department.

New York

New York's Department of Health issues licenses for "adult care facilities" for four years. Facilities are inspected at least annually but no longer than every eighteen (18) months. Inspections include, but are not necessarily limited to, examination of the medical, dietary, and social services records of the facility, as well as the minimum standards of construction, life safety standards, quality and adequacy of care, rights of residents, payments, and all other areas of operation. Two inspections per year are conducted for private proprietary adult homes.

Other types of inspections include:

- Complete inspections prior to certification or renewal
- Complete inspections when there are serious or continual deficiencies
- Summary inspections to determine compliance with key regulatory provisions in all areas of operation
- Partial inspections to examine specific areas of operation
- Inspections in response to a complaint to determine the validity of the complaint
- Follow-up inspections to determine whether deficiencies have been corrected
- Other inspections as necessary

In 2002, New York implemented new policies regarding the oversight of adult homes that included: reinforcement of mandatory death reporting by homes and immediate investigations of such reports; multi-agency profiles of deaths at the homes to identify patterns; and increased surveillance.

Alabama

The State of Alabama does not have a mandated time frame in which to visit every facility and is working on implementing a three year cycle. Alabama implemented a system for rating residential facilities in 2004. Using survey findings, facilities are rated green if they have minor deficiencies, yellow if they have a problem that could pose a substantial risk to residents, or red if the survey found serious risk to residents. Facilities rated red receive full surveys. Shorter surveys are conducted for facilities rated green or yellow. The Alabama scoring system arranges deficiencies into three categories: routine deficiencies that have limited potential for harm; systemic or substantial risk deficiencies that have a high potential for harm; and critical deficiencies that result in actual harm and lead to mandatory enforcement. Routine deficiencies present minimal risk to residents and receive a score only if more serious deficiencies are not present.

Georgia

The Georgia Office of Regulatory Services (ORS) conducts initial, annual, follow-up inspections and complaint investigations of residential facilities. Inspections are generally conducted on an unannounced basis. ORS has the authority to take the following actions against a licensee: fining; license restriction, suspension or revocation; “blacklisting” of individuals or public reprimand. Fines and revocations are the most common actions. Surveyors interview six residents and staff members or ten percent of the residents, whichever is greater, using open-ended questions that elicit information about their well-being, length of stay, how they are treated, if they have had any problems and how they were resolved, and whether they know of problems that other residents have had.