

July 19, 2012

Dr. Larry Polivka, Chair, Governor's Assisted Living Workgroup
C/O Florida State University
The Pepper Center
636 West Call Street
Tallahassee, Florida 32306-1124

Re: Assisted Living Floating Licenses

Dear Dr. Polivka,

As you recall, at the June meeting for the Governor's Assisted Living Workgroup, a proposal was introduced by Ms. Elizabeth Sholar, Nursing Home Administrator at Fleet Landing-- a LeadingAge Florida member, to allow continuing care and fee for service retirement communities to obtain a floating assisted living facility (ALF) license to use in independent living units on campus for the purpose of allowing residents to age in place.

As proposed, the assisted living floating license would be applicable to a continuing care facility licensed under chapter 651 or a retirement community with both independent living and an ALF or nursing home on the campus. Under this proposed concept, a community could request a standard or limited nursing assisted living floating license for up to 25 percent of its apartments or other residential units designated for independent living. If the applicant has an ALF on campus, the number of licensed floating beds would be added to the existing license to avoid the need for a second license. Staffing requirements established in rule would apply only to residents of units designated for independent living who have contracted for ALF services rather than to the entire building.

Since the location of licensed beds will change from time to time based on the needs of residents, a facility that uses this option would be required to retain a log listing the names of residents who have contracted for and are receiving assisted living services, the unit numbers in which service recipients reside, the date the contract for services started, the date that services ended, and documentation to demonstrate that minimum staffing standards are met. Surveyors could access the log at any time. Other record keeping requirements would mirror those applicable to the traditional ALF model.

One of our continuing care members has licensed all of its independent living apartments as ALF for many years to allow residents with moderate personal care needs to age in place. This provider also has a gold seal designation for its nursing home and is highly regarded because of the outstanding care provided campus-wide. Although only 12% to 15% of the residents in the apartments require ALF services at any given time, they must license the entire building or a distinct part of it and staff the building as if every resident is receiving personal or nursing services. We have other members that would be interested in implementing this model of care but cannot do so because of regulatory barriers that prohibit a flexible license.

The proposal for statutory changes includes the following:

Add a new subsection (12) to section 429.02 and renumber subsequent subsections.

429.02 Definitions-

(12) “Floating license” means a flexible license that allows a continuing care facility licensed under chapter 651 or a retirement community with multiple levels of care to provide assisted living to up to 25 percent of residents residing in apartments or other residential units designated for independent living. Since the goal of this license is to allow residents who need personal or nursing services but who do not require a secure environment to age in place, the specific location of the residential units designated and used for assisted living is not predetermined and instead will occur naturally as the needs of residents change.

Add a new subsection (4) to section 429.07 and renumber subsequent section.

429.07 License required; fee.—

(4) A continuing care facility certified under chapter 651 or a retirement community with a nursing home licensed under part II of Chapter 400 or an assisted living facility licensed under this part may request a standard or limited nursing floating license for up to 25 percent of its apartments, single-family homes, duplexes, quad-duplexes, or other residential units designated for independent living to allow residents to age in place. If the applicant has a licensed facility pursuant to this part on the same campus, the number of beds requested may be added to that license. Staffing requirements established in rule shall apply only to residents of units designated for independent living who have entered into a contract for assisted living services. Since the location of licensed beds will change from time to time based on the needs of residents, a facility that uses this option must retain a log listing the names of residents who have contracted for and are receiving assisted living services, the unit numbers in which service recipients reside, the date the contract for services started, the date that services ended, and documentation to demonstrate that minimum staffing standards are met. The log must be available to surveyors upon request. Contracts for such residents must be retained for five years. All other records must be retained for at least two years from the date of termination of assisted living services.

(5)(4) In accordance with s. 408.805, an applicant or licensee shall pay a fee for each license application submitted under this part, part II of chapter 408, and applicable rules. The amount of the fee shall be established by rule.

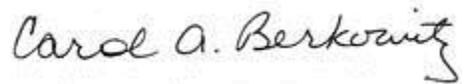
We believe this proposal is consistent with the goal of the state to create alternatives to nursing home placement and, even more important, to allow seniors to age in place. When a resident requires round the clock staff supervision or a secure environment, he or she would transition to the traditional ALF on campus or a nursing home.

On behalf of LeadingAge Florida, we would appreciate the Governor’s Assisted Living Work Group reviewing this proposal for possible inclusion in your recommendations to Governor Scott. Any suggestions for improving it would also be appreciated.

We plan to also present a proposed rule change to the Department of Elder Affairs's Assisted Living Negotiated Rule Making Work Group related to staffing flexibility for retirement communities that obtain an ALF license for independent living units. The proposed rule change would help with the staffing burden by specifying that the minimum staffing for independent living units within retirement communities that are licensed as ALFs is tied to the number of residents who are receiving assisted living services rather than to the entire building. This would provide some relief, but it would still require a provider to license the entire building or a distinct part of the building as an ALF.

In advance, thank you for your consideration of this new concept.

Sincerely,



Carol A. Berkowitz, Sr. Director of Regulations and Legal Affairs

Copy to:

Brian Robare, Chair, LeadingAge Florida

Diane Marcello, Chair-Elect, LeadingAge Florida

Janegale Boyd, President/CEO LeadingAge Florida

Tom Randle, VP of Public Policy, LeadingAge Florida

Mary Ellen Early, LeadingAge Florida Public Policy Liaison

Molly McKinstry, Deputy Secretary for Health Quality Assurance, Agency for Health Care Administration

Darlene Arbeit, Chair ALF/HCBS LeadingAge Florida

John Hehn Member, LeadingAge Florida, Presbyterian Homes

Elizabeth Sholar, Member LeadingAge Florida, Fleet Landing