



AGENDA
STATE COUNCIL MEETING
Tuesday, July 23, 2024
10:00 am – 12:00 pm EST

TEAMS MEETING

Meeting ID: 284 686 928 226 **Passcode:** VFB9zw
Or call in (audio only): +1 850-792-8943 / **Ph Conf ID:** 903 923 569#

- **Welcome – Chair**
 - Roll Call
 - Approval of Minutes
 - Chair’s Opening Remarks
- **State Ombudsman Report:**
 - **Advisory Guidance to Volunteer Ombudsman Recommendations from last Council meeting:**
 - Use of photos in visits and complaints
 - Legislative Contacts
 - **Resolver Legislation-Timing and Scope**
 - **Long Term Care Home Assignments**

How has recruitment success impacted the number of AFCH, ALF, NH, and SNF not assigned to an Ombudsman? e.g. How many homes are assigned/unassigned? This metric suggests the gap between current and needed Ombudsman and potential frequency Ombudsman may respond to unassigned homes for complaint investigation.
- **Council Member Questions/Discussion**
 - **Supervised Voting** (see attachments)
 - **Questions from South Dade Council:**
 - When visiting ALFs what should we be checking in terms of generators? Ombudsman have encountered gas containers stored in various areas and electrical hookups that look suspect.
 - Any guidance around the storage of oxygen tanks. Things we should be looking for?
 - Feedback on form: When looking for ALF licenses, the form only allows you to check if they have a license and if current. There is no space to enter the expired license or if the license is under review.
- **Old Business**
- **New Business**
 - Scheduling of future meetings
 - Status of LTCOP website
- **Workgroup Updates:**
 - **Advocacy & Legislative**
 - **Training & Education**
 - **Recruitment, Retention, Recognition**
- **Public Comments (limited to 5 minutes each)**
- **Closing Remarks – State Chair**
- **Adjourn**

Specific information about a noticed meeting may change. To confirm the meeting information prior to attending, please check the Long-Term Care Ombudsman Program (LTCOP) website at: <https://ombudsman.elderaffairs.org/> or contact the LTCOP district office.

SUPERVISED VOTING DISCUSSION MATERIAL

Supervised Voting as a program activity often is raised when state-wide and national elections are upcoming. Supervised voting is a voting option for residents of ALFs and Nursing Homes provided in State statute. A brief description is a County Supervisor of Elections can send staff to assist residents in voting in the schedule election. A service request must be made in writing 21 days prior to the election by the home administrator indicating by name those who want to vote. If the number is less than 5, the Supervisor doesn't need to provide the service. Alternatively, the Supervisor may decide to offer the service in absence of an administrator request based on the number of mail-in requests from the home.

CMS addresses Nursing Homes responsibilities to recognize and support residents' right to vote in this [memorandum](#). A key paragraph follows (emphasis added):

“Nursing homes should have a plan to ensure residents can exercise their right to vote, whether in-person, by mail, absentee, or other authorized process. If a state has specific programs to enable nursing home residents to vote, **the facility should coordinate and engage with those programs**, as appropriate. This may include:

- Mobile Polling in residential facilities performed by a bipartisan team of workers; and/or
- Assistance in registering to vote, requesting an absentee ballot, or completing a ballot from an agent of the Resident's choosing, including family representative, LTC Ombudsmen or nursing home staff (or other personnel permitted to perform these functions, per state law)”.

In the past, the program response to encouraging Supervised Voting has been local vs. a coordinated state-wide approach. Considering the program's advocacy responsibilities, a new framework for supporting Supervised Voting as an intervention in a structured state-wide approach might take the following form:

1. Partner with FALA, FHC, Leading Age-FL, [Florida Life Care Residents Association](#) (FLiCRA), and AARP
2. Primary Focus on Homes > than 50 Beds for Supervisor of Elections staffing requests
 1. Secondary effort encourages smaller homes to transport residents to polls

3. Have FLiCRA lead on the 70+ CCRA communities whose 2022 census had over 27,000 residents with about 4,000 in Nursing Homes, ALFs or Memory Care (see data below)
4. Have AARP lead with voter registration efforts through Resident Council meetings in coordination with an Ombudsman
5. FALA, AHCA, and Leading Age communicate with their memberships about the CMS requirement and support home requests to Supervisor of Elections by providing Supervised Voting request templates
6. The program supplements the above efforts with presentations designed/approved by the Central Office at Resident Council meetings

The report below identifies ALFs and Nursing Homes with 50 or more beds by County. There are 1,547 homes with 177,200 beds. The homes are approximately 36% of all homes. Twenty counties have no qualifying ALFS, and 27 counties have 3 or fewer Nursing Homes.

ALFs and Nursing Homes with More than 50 Beds By County Sorted By # of Homes Descending						
County	Details		Number of Beds		Total Number of Homes	Total Number of Beds
	Number of Homes		Assisted Living Facility	Nursing Home		
	Assisted Living Facility	Nursing Home				
Pinellas	69	64	7,166	7,528	133	14,694
Palm Beach	69	51	8,038	6,070	120	14,108
Broward	65	31	7,879	4,346	96	12,225
Hillsborough	59	29	6,066	3,902	88	9,968
Miami-Dade	31	51	4,028	8,207	82	12,235
Sarasota	51	26	5,500	2,928	77	8,428
Duval	39	33	4,137	4,364	72	8,501
Volusia	37	29	3,378	3,427	66	6,805
Orange	29	32	2,845	4,231	61	7,076
Polk	27	26	2,448	3,238	53	5,686
Brevard	33	20	3,430	2,705	53	6,135
Lee	35	17	4,169	2,066	52	6,235
Pasco	26	18	3,215	2,174	44	5,389
Manatee	23	12	2,357	1,536	35	3,893
Collier	26	8	2,972	833	34	3,805
Lake	19	14	1,911	1,637	33	3,548
Escambia	18	15	1,524	1,883	33	3,407
Seminole	25	7	2,549	1,024	32	3,573
Marion	20	12	1,850	1,620	32	3,470
Citrus	12	9	1,086	1,103	21	2,189
Charlotte	12	8	1,067	1,156	20	2,223
Leon	13	7	1,280	937	20	2,217
St. Johns	13	7	1,160	720	20	1,880
St. Lucie	10	9	983	1,140	19	2,123
Martin	12	6	1,411	713	18	2,124
Indian River	13	5	1,140	650	18	1,790
Okaloosa	10	8	809	899	18	1,708
Sumter	13	4	1,679	432	17	2,111
Osceola	7	10	734	1,200	17	1,934
Clay	6	11	599	1,260	17	1,859
Alachua	7	9	656	1,272	16	1,928
Hernando	9	6	1,168	769	15	1,937
Santa Rosa	9	4	748	410	13	1,158
Highlands	8	5	904	598	13	1,502
Bay	7	5	570	538	12	1,108
Flagler	8	2	791	240	10	1,031
Columbia	5	4	458	418	9	876
Nassau	4	2	346	240	6	586
Walton	4	2	481	277	6	758
Jackson		4		540	4	540
Suwannee	1	3	60	401	4	461
Putnam	1	3	82	337	4	419
Monroe	1	2	58	240	3	298
Madison		3		238	3	238
Holmes	1	1	56	180	2	236
Jefferson		2		157	2	157
Calhoun		2		246	2	246
Desoto	1	1	65	78	2	143
Hendry		2		248	2	248
Bradford		2		240	2	240
Baker		2		188	2	188
Gilchrist		2		201	2	201
Taylor		1		120	1	120
Dixie		1		60	1	60
Okeechobee		1		210	1	210
Wakulla		1		120	1	120
Levy		1		120	1	120
Franklin		1		90	1	90
Gadsden		1		120	1	120
Hamilton		1		60	1	60
Hardee		1		79	1	79
Washington		1		180	1	180
Gulf		1		120	1	120
Lafayette		1		60	1	60
Grand Total	888	659	93,853	83,324	1,547	177,177

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop C2-21-16
Baltimore, Maryland 21244-1850



Center for Clinical Standards and Quality/Quality, Safety & Oversight Group

Ref: QSO-21-02-NH

DATE: October 5, 2020

TO: State Survey Agency Directors

FROM: Director
Quality, Safety & Oversight Group

SUBJECT: Compliance with Residents' Rights Requirement related to Nursing Home Residents' Right to Vote

Memorandum Summary

- *The Centers for Medicare & Medicaid Services (CMS) is affirming* the continued right of nursing home residents to exercise their right to vote.
- While the COVID-19 Public Health Emergency has resulted in limitations for visitors to enter the facility to assist residents, nursing homes must still ensure residents are able to exercise their Constitutional right to vote.
- States, localities, and nursing home owners and administrators are encouraged to collaborate to ensure a resident's right to vote is not impeded.

Background

CMS is providing clarification to Medicare/Medicaid certified long term care facilities (hereinafter, 'nursing homes') of their existing requirement to affirm and support the right of residents to vote. Current regulations related to exercising the right as a citizen of the United States, including voting or use of mail (including use for mail-in or absentee ballots), under Residents' Rights include (**emphasis added**):

§483.10(b) Exercise of Rights: The resident has the right to exercise his or her rights as a resident of the facility and **as a citizen or resident of the United States.**

§483.10(b)(1) The facility must ensure that the resident **can exercise his or her rights without interference, coercion, discrimination, or reprisal from the facility.**

§483.10(b)(2) The resident has the right to be free of interference, coercion, discrimination, and reprisal from the facility in exercising his or her rights and to **be supported by the facility in the exercise of his or her rights as required under this subpart.**

A resident's rights, including the right to vote, must not be impeded in any way by the nursing home and its facility staff.

Nursing homes should have a plan to ensure residents can exercise their right to vote, whether in-person, by mail, absentee, or other authorized process. If a state has specific programs to enable nursing home residents to vote, the facility should coordinate and engage with those programs, as appropriate. This may include:

- Mobile Polling in residential facilities performed by a bipartisan team of workers; and/or
- Assistance in registering to vote, requesting an absentee ballot, or completing a ballot from an agent of the Resident's choosing, including family representative, LTC Ombudsmen or nursing home staff (or other personnel permitted to perform these functions, per state law).

For information on ways to enable safe visitation during the COVID-19 public health emergency, please see [CMS Memorandum QSO-20-39-NH](#).

Whether or not external assistance is available to come into the facility, nursing homes are required to support a resident in the exercise of their right (§483.10(b)(2)) to vote, such as assisting with absentee or mail-in voting, or transporting residents to polling locations or ballot drop-boxes in a safe manner. Social distancing should still be maintained if a facility chooses to transport a few smaller number of residents at a time (depending on the size of the vehicle).

For residents who are otherwise unable to cast their ballots in person, nursing homes must ensure residents have the right to receive and send their ballots via the U.S. Postal Service, or other authorized mechanism allowed by the State or locality. CMS regulations specific to use of mail, which also apply to voting, for voting, include (emphasis added):

§483.10(g)(7) The facility must protect and facilitate that resident's right to communicate with individuals and entities within and external to the facility, including reasonable access to: (i) A telephone, including TTY and TDD services; (ii) The internet, to the extent available to the facility; and (iii) **Stationery, postage, writing implements and the ability to send mail**

§483.10(h)(2) The facility must respect the residents right to personal privacy, including the right to privacy in his or her oral (that is, spoken), written, and electronic communications, including **the right to send and promptly receive unopened mail and other letters, packages and other materials delivered to the facility for the resident**, including those delivered through a means other than a postal service

“Promptly” means delivery of mail or other materials to the resident within 24 hours of delivery by the postal service (including a post office box) and **delivery of outgoing mail to the postal service within 24 hours**, except when there is no regularly scheduled postal delivery and pick-up service.

Nursing home residents or their representatives who believe their rights under these regulations have been violated can file a complaint with their State Survey Agency, here:

<https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Downloads/Complaintcontacts.pdf>

Allegations of voter coercion or intimidation can also be referred to the Department of Justice for [filing voting complaints](#) with the Civil Rights Division by calling 800-253-3931, emailing voting.section@usdoj.gov or by [submitting an online form](#) .

Additional information is available from the HHS Administration for Community Living related to voting rights and resources, as well as contact information for Long Term Care Ombudsmen, here: <https://acl.gov/news-and-events/announcements/voting-resources-older-americans-and-people-disabilities>.

During the Public Health Emergency, CMS is advising against the use of nursing homes as polling locations for the general public.

Contact: Questions about this document should be addressed to DNH_Enforcement@cms.hhs.gov .

Effective Date: Immediately. This policy should be communicated with all survey and certification staff, their managers and the State/Regional Office training coordinators immediately.

/s/

David R. Wright

cc: Survey and Operations Group Management

The Florida Senate

2021 Florida Statutes (Including 2021B Session)

<p><u>Title IX</u> ELECTORS AND ELECTIONS</p>	<p><u>Chapter 101</u> VOTING METHODS AND PROCEDURE</p> <p><u>Entire Chapter</u></p>	<p>SECTION 655 Supervised voting by absent electors in certain facilities.</p>
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101.655 Supervised voting by absent electors in certain facilities. —

(1) The supervisor of elections of a county shall provide supervised voting for absent electors residing in any assisted living facility, as defined in s. [429.02](#), or nursing home facility, as defined in s. [400.021](#), within that county at the request of any administrator of such a facility. Such request for supervised voting in the facility shall be made by submitting a written request to the supervisor of elections no later than 21 days prior to the election for which that request is submitted. The request shall specify the name and address of the facility and the name of the electors who wish to vote by mail in that election. If the request contains the names of fewer than five voters, the supervisor of elections is not required to provide supervised voting.

(2) The supervisor of elections may, in the absence of a request from the administrator of a facility, provide for supervised voting in the facility for those persons who have requested vote-by-mail ballots. The supervisor of elections shall notify the administrator of the facility that supervised voting will occur.

(3) The supervisor of elections shall, in cooperation with the administrator of the facility, select a date and time when the supervised voting will occur.

(4) The supervisor of elections shall designate supervised voting teams to provide the services prescribed by this section. Each supervised voting team shall include at least two persons. Each supervised voting team must include representatives of more than one political party; however, in any primary election to nominate party nominees in which only one party has candidates appearing on the ballot, all supervised voting team members may be of that party. No candidate may provide supervised voting services.

(5) The supervised voting team shall deliver the ballots to the respective absent electors, and each member of the team shall jointly supervise the voting of the ballots. If any elector requests assistance in voting, the oath prescribed in s. [101.051](#) shall be completed and the elector may receive the assistance of two members of the supervised voting team or some other person of the elector's choice to assist the elector in casting the elector's ballot.

(6) Before providing assistance, the supervised voting team shall disclose to the elector that the ballot may be retained to vote at a later time and that the elector has the right to seek assistance in voting from some other person of the elector's choice without the presence of the supervised voting team.

(7) If any elector declines to vote a ballot or is unable to vote a ballot, the supervised voting team shall mark the ballot "refused to vote" or "unable to vote."

(8) After the ballots have been voted or marked in accordance with the provisions of this section, the supervised voting team shall deliver the ballots to the supervisor of elections, who shall retain them pursuant to s. [101.67](#).

History.—s. 6, ch. 96-57; s. 5, ch. 2006-197; s. 19, ch. 2016-37.

Disclaimer: The information on this system is unverified. The journals or printed bills of the respective chambers should be consulted for official purposes.

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