





Michael Phillips  
State Ombudsman

SB 718 – Patient Care in Healthcare Facilities – Expands the medications and devices an unlicensed person can assist with to include insulin syringes, nebulizer solution, glucometer, anti-embolism stockings, oxygen cannula, colostomy bags.

HB 539 – Nursing Home Financial Reporting – Requires nursing homes to provide audited financial reports to AHCA and requires AHCA to create system for financial reporting and analysis of nursing home financials similar to hospitals.

SB 646 – Quality of Long-Term Care Facility Improvement Fund – Removes provision requiring half of punitive damage awards against nursing homes to be deposited into this fund.

SB 1032 – Guardianship Jurisdiction – Enacts uniform provisions regarding guardianship jurisdiction which have been adopted by the majority of other states but not Florida. This will make it easier to transfer guardianships to/from Florida.

SB 414 – Family Caregiver CNA Program – Requires Board of Nursing & AHCA to develop a training program to train and certify family caregivers as CNAs. The program must include 84 hours of training (40 theoretical instruction, 28 skills training, 16 clinical training), after which the caregiver may take the CNA exam. The caregiver must serve as CNA for family member for 2 years under licensed nurse registry; after 2 years, no such restrictions.

General Discussion: Marshall asked about the process for determining LTCOP's positions on proposed legislation. Michael Phillips stated that the legislative workgroup plays an important role in this determination. Federal and state law provide that LTCOP's positions ultimately are to be determined by the State Ombudsman, but these positions should be informed by input from the state council and the legislative workgroup.

b. Federal Legislation

H.R. 5376 – Build Back Better – This bill has been passed by House and is next to be considered by the Senate. As passed by the House the bill contains several provisions addressed to improving nursing home staffing and resident care, including:

- Requiring an RN on-site 24 hours per day (effective 2024)
- Requiring HHS to study & recommend minimum nursing staff ratios
- Funding audits by HHS of nursing home cost reports
- Funding HHS review and potential revision to NH survey/enforcement process



# FLORIDA OMBUDSMAN PROGRAM

ADVOCATING FOR QUALITY LONG-TERM CARE

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The State Ombudsman supports these provisions of the proposed bill and will be circulating information regarding how ombudsmen can express their support of these provisions to their senators, if desired.

H.R. 3733 – Essential Caregivers Act – Requires nursing homes to implement an “Essential Caregivers Program” during a declared public health emergency that allows each resident to designate up to two individuals to have access and provide assistance to the resident for 12 hours per day (unlimited at end-of-life). Provides an expedited appeals process for denial of access; imposes penalties for violations.

c. Personal Care Attendant Rule

There have been no developments on draft Rule 59A-4.1081 since the workshop on October 28 and the comment period ending November 4, 2021. In response to a public records request to AHCA for copies of the comments on the rule by others, we received comments from the Florida Health Care Association, Leading Age, AARP, and SEIU. Lynn will forward these to anyone who is interested. The next step will be for AHCA to file a Notice of Proposed Rule, which will also be subject to a public hearing.

2. Staffing in ALFs – The chair provided the history of Rule 59A-36.010, which was initially adopted by the Department of Elder Affairs and subsequently transferred to AHCA. The staffing requirement is weekly instead of daily because the facilities vary significantly. The previous workgroup chair had identified ALF staffing as a potential issue for review and consideration for the workgroup. Members discussed whether they should pursue this matter at this time. It was noted that the workgroup will be busy addressing the proposed legislation in the upcoming session of the Florida Legislature. A motion was made to table this topic for an indefinite period, until the workgroup determines it wishes to consider it. This motion was seconded and approved unanimously.
3. New Business – Workgroup members discussed the proposed timing of the next meeting, and agreed to set it for the week of January 3, 2022. Lynn will send the chair proposed dates/times for circulation to the members.
4. Public Comment – None.

## ADJOURNMENT

- Motion to adjourn was made, seconded and approved.
- Workgroup adjourned at 11:13 AM.