



PULSE

A PUBLICATION FOR FLORIDA'S LONG TERM CARE COMMUNITY

Florida nursing centers earn the Governor's Gold Seal

Last month, the Agency for Health Care Administration acknowledged 11 Florida nursing centers for earning the Governor's Gold Seal Award, 10 of which are Florida Health Care Association members. The Gold Seal Award recognizes Florida nursing centers that display excellence in the quality of long term care delivered to their residents. Thirty-seven Florida nursing centers currently hold the Gold Seal designation, with 33 of those being FHCA members.



AHCA Deputy Secretary Molly McKinstry (left) with Okeechobee Health Care Facility Administrator-In-Training Sandy Perry.

"Florida's long term care centers have consistently demonstrated a great commitment to quality care, and we are proud of our members for earning this well-deserved recognition," said Emmett Reed, FHCA Executive Director.

Award were presented to six new recipients and five renewal recipients. FHCA member centers earning the Gold Seal distinction this period are noted at right.

Alpine Health and Rehabilitation Center, Saint Petersburg
Baldomero Lopez Memorial State Veterans Nursing Home, Land O Lakes*

Clyde E Lassen State Veterans Nursing Home, Saint Augustine*

Delaney Park Health and Rehabilitation Center, Orlando

Haven of Our Lady of Peace, Pensacola*

Joseph L Morse Geriatric Center Inc., West Palm Beach

Okeechobee Health Care Facility, Okeechobee*

The Pavilion for Health Care, Penney Farms

Port Orange Nursing and Rehab Center, Port Orange*

Royal Oaks Nursing and Rehab Center, Titusville

**Denotes FHCA member nursing centers receiving the award for the first time.*

The Governor's Gold Seal Award for Excellence in Long Term Care recognizes nursing centers that demonstrate excellence in long term care over a sustained period, promotes the stability of the profession and facilitates the physical, social, and emotional well-being of nursing center residents.

To learn more about the Governor's Gold Seal Award, visit http://www.fhca.org/quality_improvement/gold_seal_award.♦

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Long Term Care Photo Contest

February 25 is the submission deadline for FHCA's Long Term Care Photo Contest. The contest is seeking photographs which capture some aspect of daily life in long term care, such as resident/staff interactions, activities and events, therapy services, etc.

Help FHCA showcase the loving care between residents, family and staff by submitting your photos — your center could win \$500 toward an activity for your residents and staff!



More information, including the submission link, can be found at www.fhca.org/media_center/photocontest.

New Year, new you

Be the best FHCA member you can be



By John Simmons, MSW, NHA
FHCA President

By now most of you are likely well into your New Year's resolutions. Maybe you wrote them down and kept them to yourself, or maybe you had the courage to tell your spouse or friends what you want to try to improve upon this year. Some of us want to lose weight, while others want to find a new job. One of my favorite promises to myself is to clear off the top of my desk and get my office better organized. In fact, I used to spend the last few days of December doing just that, only to find that by mid-January the pile on my desk was higher than it was when I started to clean. I no longer go with that New Year's resolution.

Our voice and active involvement helps drive the agenda and contributes to our own success

As I thought about this month's article, I wanted to offer some resolutions related to FHCA that you may not have thought of when putting your own list together last month. As President of this member-driven organization, I believe keeping the Association in the forefront of our minds is important. Our voice and active involvement helps drive the agenda and contributes to our own success, so it makes sense to set goals related to FHCA as we embark on the New Year. And, with the support of your fellow members and a staff that is available to assist us whenever needed, we have a very good chance of actually achieving these resolutions.

First, resolve to attend three more district meetings in the coming year than you did last year. FHCA puts district meeting information in the Calendar section of its website, which includes the contact information for your district president. Most districts have holiday parties which are a great networking opportunity and a lot of fun. And surely each of us could use a few extra CEUs, so take advantage of the speakers, the connections and the opportunity to share experiences with your long term care peers.

Make a donation to FHC PAC. As long term care professionals, it's up to us to share our stories and advocate for our staff and residents. Making a financial commitment to the FHC PAC helps us build strength in numbers and allows us to educate legislators about our long term care issues so lawmakers are informed when they make decisions about regulations, reimbursement and other factors that impact the quality care we deliver.

You can support the FHC PAC at whatever donation level works for you — either send a check to FHCA or you can donate online at www.fhcpac.org. I hope you'll join me as we work to make an impact.

Resolve to come to one of FHCA's Lobby Wednesdays. And if you normally attend one, bring someone else with you this year. Numbers make a difference when calling on legislators. FHCA has come a long way in the years I have been involved, but there is always more to do. We need you to be fully engaged and involved.

In fact, that brings me to my final resolution.

Invite your local legislator to tour your center. Firsthand knowledge of what you do on a daily basis has proven to be the best way to help our legislators truly understand the needs of those we serve. They love meeting with their constituents and learning about the contributions you're making in their district — from the health care services you're providing to area seniors to the economic impact you're making with hundreds of jobs and purchasing power to effectively run your building. And, they always love a photo opportunity with your staff and residents; it's great material for everyone's Facebook page or Twitter feed!

So, get organized, improve your health by exercising or losing some weight. But, don't forget about your professional success and resolve to become even more active in FHCA. ♦

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The mission of FHCA is to advance the quality of services, image, professional development and financial stability of its members.

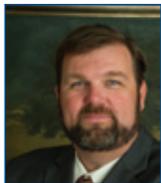
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by J. Emmett Reed, CAE

FHCA/Our Florida Promise
Executive Director

FAMILY FORUM

*“On behalf of our family,
[thank you] for the care
of our dear loved one....*

*You have no idea how
grateful we were for the
loving nurses that extended
themselves to keep our
mother and grandmother’s
needs met. We could see
that she loved some of you
and that you respected and
loved her too...Different
members of the family were
stopped in the hallways
by staff members who
spoke fondly of her. We
appreciated hearing those
endearing words...It meant
so much that we were able
to be with her until she
finally left us...The staff
communicated just what we
needed, when we needed
it... You will certainly stay in
[our memories].”*

*The family of E.S. to Jennifer
Mikula and the team of
Palm Garden of Ocala*

Effort always matters

My youngest daughter recently set a goal to make the countywide science fair competition. In order to do so, she first would need to take home first place at her school science fair.

The experiment she chose was seeing if collard greens grew differently under different color LED lighting. While that might sound like a simple project, it was actually quite a bit of work for a 7th grader. She had to buy all of the materials for the project, set the lights up, plant the collard greens, turn the lights on for a certain amount of time each day and measure the results. Of course, she had to create a hypothesis, graph the results and then draw conclusions from the experiment and point out how the results may have contrasted with her hypothesis.

At the actual science fair, we were all confident that she had a good chance of winning. Aesthetically, and of course I'm her dad, she had one of the most eye-catching displays. Her hypothesis and conclusions were presented in a professional manner, and her graphs looked sharp. During the fair, three judges came by and asked her questions, which she answered well.

But then, each judge pointed out a problem with her graphs. She had left some key information off her graphs, and she felt terrible. She knew by the judges' comments that she would not take home the grand prize this time. Sigh! Even more worrisome than not winning the fair was the fact that the project would significantly impact her science grade. I witnessed, firsthand, the effort she put into the project and made certain I told her I was proud of her. In our home, we tell our children that, as long as they give their best effort, we will be pleased with the results.

A week passed and one night, on a father/daughter date, she informed me that she had received a 102 A+ on her science fair project - wow! What a relief, and what great news. While she may not have achieved her goal of winning the fair, her excellent grade would help her continue in the pursuit of achieving her goal of getting straight A's on her report card.

That story got me thinking about the Florida legislative session. Florida Health Care Association staff put in countless hours all year long preparing for session. Center tours, political events and visits with lawmakers in their districts are just some steps taken to prepare for the 60-day session. Our members put in their time too, attending the aforementioned tours and meetings, as well as leading FHCA committees and setting the legislative agenda. It is an all-around effort, and it is important we do our best.

We will be asked questions by legislators and will answer to the best of our abilities. We will testify in committee meetings and lobby on behalf of our members' concerns. We will get knocked down and pick ourselves up to continue fighting for what we believe is right.

Many of you have experienced the highs and lows that can come in that crazy 60-day session. If history tells us anything, it's that effort matters. We have had to fight for individual issues over multiple years to garner success. But we did not give up, nor did we quit trying.

As this session approaches, I am challenging my staff, and you, the member, to give your best effort as it relates to our legislative priorities. Call and write your legislators whenever FHCA has a call to action. Coordinate a Lobby Wednesday with your company or district. Read your *Focus on Florida* weekly and the *Pulse* regularly to stay informed about the issues that matter to the long term care profession.

All the hard work will pay off. It may not be immediate, but it will pay off.

Are you willing to put in the effort needed to win? I hope you are, because effort matters.◆

More on the new CMS regulations

The admission process

By Karen Goldsmith

F 208 focuses on what you can and cannot do Vis-a-vis a resident both upon admission and during residency.

One new prohibition is that you cannot request or require residents or potential residents “to waive potential facility liability for losses of personal property.” What does this mean? In the absence of Interpretative Guidelines, we are forced to form our own conclusions. In our opinion, this prohibition is very limited. It does not mean that you have to reimburse every resident for every item of personal property lost or stolen. You simply cannot make someone waive their right to request or demand payment because of a loss.

When read in conjunction with other regulations, this provision means that if something disappears, you are required to investigate the loss and attempt to locate the item. If the item cannot be located, you will have to determine if you are going to pay for the item in accordance with your policies and procedures. If you find that the item disappeared as a result of some negligence on the part of the facility, you may decide to pay for it. For example, perhaps an aide gave a resident a bath and forgot to take her watch off before taking her to the shower room. In the shower room, the aide places the watch on a table and forgets it when she takes the resident back to her room. When she remembers, the watch has disappeared. After a thorough search, the watch does not turn up. You may decide that, based on those circumstances, you should replace the watch.

When you write your policies and procedures, be careful to ensure they have some flexibility for your staff to assess all of the circumstances before deciding whether to pay for the property.

Under the new provisions found at F 208 is clarification as to how far a provider can go in seeking a third party guarantor. The new language states that the facility “must not request or require a third party guarantor as a condition of admission, expedited admission or continued stay in the facility (emphasis added).” This does not preclude the provider from seeking assurances of payment from an individual having access to a resident’s funds as long as this person does not incur personal liability.

A new provision under that tag requires a facility to disclose “any special characteristics or service limitations of the facility.” This means you must give a resident or potential resident information, such as that you have a very small Medicaid unit and there may not be a bed available if the resident converts.

Some of the disclosures or prohibitions found in F 208 apply to newly-admitted residents and residents in general. Make sure you have a way of giving the disclosures that are newly required to all of your residents. ♦



Karen Goldsmith of Goldsmith & Grout, PA serves as FHCA’s Regulatory Counsel. Her office is located at PO Box 875, Cape Canaveral, FL 32920. She is available to members by phone at (321) 613-2979 or e-mail at klgoldsmith@ggflawfirm.com.



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Who will care for the Baby Boomers?

by Deborah Franklin

Last month began my newest journey in long term care. After more than 30 years working as a provider, I've switched gears and am excited to join the FHCA family and work side-by-side with the team of experts at FHCA. Florida Health Care Association has and always will be a leader in advocating for quality, and I'm thrilled to use my skills and experience to support our members as we work to further our profession's efforts in continuous quality improvement.

At last month's Quality Cabinet meeting, much of the focus was on the challenges our profession is facing today as a result of a shrinking workforce. Recruitment and retention struggles amidst Florida's looming nursing shortage were a top-level discussion, and as such, the Cabinet formally established a Workforce Council to address these issues. Additionally, we'll be adding a *Pulse* column on workforce, highlighting best practices and providing timely developments. The Cabinet, chaired by Past President Scott Allen, will also work with FHCA's Quality Department on developing additional resources and identifying educational opportunities to support members' needs.

Providers are experiencing a shortage of quality workers in long term care centers across the nation. These frontline workers provide hands-on care, supervision and emotional support to many people with chronic illnesses and disabilities. The care they provide is both intimate and clinically complex; it is physically and emotionally challenging on a daily basis. In addition to helping with activities of daily living, such as bathing, dressing, toileting, eating, providing medication management and treatments, these caregivers provide the personal interaction that is essential to quality of life and quality of care for the patients or residents.

Nursing centers report unprecedented vacancies and turnover rates for certified nursing assistants, registered nurses, licensed practical nurses and other caregivers. These shortages will likely worsen over time as the demand increases. Staffing shortages and frequent turnover have negative effects on providers, residents and other team members. Quality care may suffer, and caregivers in understaffed environments may experience higher rates of injury. Turnover is expensive for providers; training and benefit costs continue to rise.

The future of the long term care workforce doesn't look promising unless providers, policymakers and regulators take notice and take action. The size of the elderly population will increase as the Baby Boomer generation ages. At the same time, middle-aged caregivers, who have traditionally provided care, will also be reduced. Policy advisors fail to recognize long term care as a distinct sector within the larger health care sector, leading to the lack of policy attention and resources dedicated to the workforce of caring for the elderly population in acute and primary settings.

Factors affecting workforce supply and quality

The success for a provider in their efforts to recruit, retain and maintain a long-term workforce is dependent on a variety of

interdependent factors. One important factor that influences individuals' decisions to enter and remain in the long term care field is how society views what a caregiver does. The public perception of caregiver jobs in nursing centers is that they are low-wage, provide primarily maid services and that they care for incontinent, cognitively unaware old people. This image is compounded by trial lawyers' ads and news stories that highlight poor quality and working conditions in nursing centers.

Regulatory policy for nursing centers and assisted living facilities focuses on protecting patients and residents, rather than on responding to caregiver concerns; this further compounds the negative perception of the caregiver. These factors have molded the true reality of wonderful, hard-working caregivers into an image of a depressed and beleaguered group who are too fearful of missteps to exercise creativity, or even common sense, in their daily work. The adversarial relationship between the residents, families and regulators on one side pitted against the providers on the other has tarnished the image of the long term care profession. It can seem impossible to combat this perception. The strict regulatory approach embraced by many consumer advocates may have unintended negative consequences for the long term care workforce.

There are several knowledge and information gaps that need to be addressed to further the development of a qualified, sustainable workforce. We need a better understanding of the source of the problem, the effects of policy interventions and what approaches succeed and fail. The public perception needs to change about caregivers and the vital role they play in quality care. We need to develop and test creative ways of developing new pools of workers to meet the demand for the future.

The future of the caregiver is, in many ways, a barometer for the health of our profession. Stakeholders must work together to find creative solutions to this crisis. The widespread consensus is that there are not enough competent licensed practical nurses, registered nurses and certified nursing assistants to manage, supervise and deliver high-quality long term care to the ever-increasing elderly population. We are united to strengthen and expand this workforce and to continue

providing Florida's aging population with the quality care they deserve. ♦



Deborah Franklin is FHCA's Senior Director of Quality Affairs. She can be reached at dfranklin@fhca.org.

Eleventh Circuit strikes down EEOC's overly expansive interpretation of the ADA

By Mike Miller

Miller Tack & Madson, FHCA Labor Relations Consultant

Recently, the Eleventh Circuit, which covers Florida, Georgia and Alabama, ruled against the Equal Employment Opportunity Commission (EEOC) in a disability discrimination lawsuit filed on behalf of a former employee of a Tampa area hospital. The employee worked for the hospital as a nurse in the psychiatric ward. She had been employed by the hospital for over 21 years. After developing arthritis and undergoing hip replacement, the employee began using a cane to walk. Concerned that the cane could be used as a weapon by psychiatric patients, the hospital informed the employee that she could no longer use it to perform her job duties. Ultimately, the hospital gave the employee 30 days to find another job for which she was qualified.

Pursuant to the hospital's requirements, an internal candidate who was applying for a transfer had to have been in his or her current position for at least six months with no final warnings. This employee, having recently been demoted for failing to follow hospital procedures and placed on final warning did not meet these requirements. The hospital, however, waived its requirements, and the employee was able to compete with other internal applicants for the positions.

The employee subsequently went on vacation and did not apply for another position until three weeks into the 30-day period. Of the seven positions that she applied for, three were at issue in the litigation. After the 30-day period expired, and the employee had not found another job, the hospital terminated her employment.

The EEOC argued to the Eleventh Circuit that the Americans with Disabilities Act (ADA) mandates that employers reassign an employee with a disability to a vacant position without the employee having to compete for the position. The Eleventh Circuit disagreed. According to the Eleventh Circuit, "employers are only required to provide alternative employment opportunities reasonably available under the employer's existing policies," such as, the hospital's "best-qualified applicant policy." The Eleventh Circuit further explained that requiring reassignment of the employee in violation of the hospital's best qualified applicant policy was not reasonable in terms of efficiency, good performance, costs, or the well-being of patients. In fact, as the Eleventh Circuit noted, patients' lives can depend on having the best-qualified personnel in place.

While the ADA requires employers to provide meaningful equal employment opportunities to qualified individuals with disabilities, the Eleventh Circuit confirmed that "the ADA was never intended to turn nondiscrimination into discrimination against the non-disabled." The Eleventh Circuit's decision dealt a solid blow to the EEOC's ongoing

efforts to expand the scope of the ADA beyond the plain language of the statute and any reasonable interpretation thereof.

EEOC issues resource document

The EEOC recently issued a resource document, which address the rights of individuals with mental health conditions under the Americans With Disabilities Act (ADA). The need to raise awareness of the rights of individuals with mental health conditions came to the EEOC's attention through its outreach to veterans returning home with service-related disabilities. According to EEOC Chair, Jenny Yang, "[t]his resource document aims to clarify the protections that the ADA affords employees."

The resource document, which is in Q & A format, can be found at www.eeoc.gov/eeoc/publications/mental_health.cfm. It explains that the ADA prohibits discrimination and harassment because of a mental health condition, such as, depression, post-traumatic stress disorder, etc. and summarizes the limited situations in which an employer may ask medical questions, such as, when an individual requests a reasonable accommodation; after a conditional job offer but before employment begins (provided the employer asks the same questions to everyone entering the same job category); engaging in affirmative action for individuals with disabilities; and when there is objective evidence that an employee cannot perform his or her job or may pose a safety risk due to a health condition. The resource document also explains the legal right to a reasonable accommodation absent "significant difficulty or expense," how to request a reasonable accommodation, and what to expect afterward (e.g., a request for medical documentation). Where an employee cannot perform his or her job even with an accommodation, the resource document states that the employee may be entitled to unpaid leave as a reasonable accommodation, or request reassignment. ♦



Mike Miller is with Miller Tack & Madson, FHCA's Labor Relations Consultant. Learn more about MTM at www.peolawyers.net.

2017 legislative session...a breadth of issues

By Bob Asztalos

Next month, legislators will return to Tallahassee for the 2017 legislative session (which begins March 7). For the past few months, FHCA's Government Affairs team has been working with the Legislative Committee and the members of Our Florida Promise (OFP) to finalize the priorities that we'll focus on this session. If you've been keeping up with our communications, you know that Florida will likely move to a Prospective Payment System (PPS) and the Agency for Health Care Administration contracted with Navigant Healthcare to develop a model for transitioning Medicaid nursing center rates from the current cost-based system to a PPS.

FHCA and OFP have been actively involved in this process, participating in public meetings and providing recommendations along the way. Navigant released their final report to the Governor, the President of the Senate and the Speaker of the House on January 1, which included the current reimbursement methodology, a detailed description of the proposed methodology (including the quality measures) and additional implementation issues related to the new methodology. FHCA developed a summary of the Navigant PPS Report, which is available via the website at www.fhca.org. The new payment system, along with the need for increased Medicaid funding to support providers as they make this transition, will be a top priority for the Association this session.

Medicaid managed care will also be a key focus for FHCA as the Senate looks to review Florida's Statewide Medicaid Managed Care Long-Term Care Program. Florida Senate President Joe Negron (R-Palm City) has tasked the Senate with studying whether the system is working to save the state money and improve quality of care, in particular as Florida approaches the end of its first round of five-year contracts with managed care plans. In a series of Senate and House Committee meetings, FHCA testified as to the challenges providers are experiencing with payment delays and administrative burdens, along with issues residents are having with transportation and access to other services, such as the availability of certain specialists inside residents' plan networks. FHCA will be working with lawmakers, the Agency for Health Care Administration and the managed care companies to identify the best solutions to fix these problems. We'll be looking for your help to gather data to help us with this process.

FHCA will also be watching the threat of nursing center Certificate of Need (CON) deregulation. At press time, a House bill was filed that would eliminate our current CON process. FHCA will be actively working to remove nursing centers from being included in this legislation, as our current CON process is working well to ensure managed growth where there is a demonstrated need.

More information about these priorities can be found on our Engage LTC Advocacy website which you can access via FHCA.org. The site gives visitors an option to subscribe to our mailing list and be notified when action is needed on a bill. We've also launched our FHCA Mobile App, which has a dedicated Advocacy section to help you access legislative information on the go. The FHCA App, available via the iTunes store or GooglePlay, has a search feature to help you identify your legislators, links to our key priorities and Issue Briefs, as well as video clips of our weekly Provider Program update from the Capitol.

You can also review a list of our 2017 Lobby Wednesdays and make plans to join us in Tallahassee this session. You don't have to be a lobbyist to hold an effective meeting with your Senator or Representative. FHCA's Lobby Wednesdays include an informative briefing on these key priorities, but the success of these meetings always comes from the ability to tell personal stories. When our members join us and share stories about their staff, their residents and how the decisions made in Tallahassee impact the important work they do to care for Florida's seniors, it truly makes a difference. Legislators appreciate hearing

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Stand Up & Advocate

Take part in FHCA's Lobby Wednesdays.

Sign up yourself, your company or your district today.

Visit www.fhca.org/events/lobby_days for details.

MARCH 15, 22 & 29
APRIL 5 & 19



Bob Asztalos is FHCA's Chief Lobbyist. He can be reached at asztalos@fhca.org.

Comprehensive Joint Replacement

By Robin A. Bleier, RN, LHRM, CLC

The Centers for Medicare and Medicaid Services (CMS) Final Rule 5516-F includes that certain hospitals in specifically designated geographic areas receive retrospective bundled payments for episodes of care for lower extremity joint replacement (LEJR) or reattachment of a lower extremity. All related care within 90 days of hospital discharge from the joint replacement procedure will be included in the episode of care. The two DRGs included under this payment model are MS-DRG 469 (Major joint replacement or reattachment of lower extremity with Major Complications or Comorbidities (MCC)) or MS-DRG 470 (Major joint replacement or reattachment of lower extremity without MCC).

As a part of a Comprehensive Joint Replacement (CJR) payment model, there are provisions in which a resident could have the three-day qualifying hospital stay waived and still receive Medicare covered skilled nursing facility services (SNF) related to these two MS-DRGs.

Based on submitted comments, CMS made some revisions and finalized their policy related to this issue. Eligible SNFs must maintain a minimum of three stars; CMS advises they will be maintaining an eligible SNF list easily found on the CMS website.

To be covered under the three-day qualifying hospital stay waiver:

1. The resident must have been in a hospital participating in the CJR model.
 2. Hospital discharge must have occurred within 30 days prior to the initiation of SNF services.
 3. The resident must be discharged from the hospital on or prior to day three (3) of the hospital stay (thus no 3 MNs on census).
 4. The resident discharge diagnosis must be one of the two included DRGs.
5. The resident meets all criteria to be comprised of the following:
 - Medicare is the primary payment source (thus the resident is enrolled in Part A/B)
 - Coverage for the Medicare eligibility is not on the basis of ESRD, and
 - Not covered under a United Mine Workers of America health plan and or enrolled in a Medicare Advantage Plan.

The SNF is qualified to admit CJR model beneficiaries under the waiver on the date of SNF admission based on its overall star rating of three stars or better for at least seven of the preceding 12 months.

Medicare will not cover and pay under Part A for SNF services under the CJR model SNF three-day rule waiver unless all of the above listed criteria are met. The three-day waiver provision did not begin until performance year two of the CJR model, which was January 1, 2017. CMS is to provide additional information on the use of this waiver through MLN Matters. ♦

**This article was written January 2, 2017, and was based on currently available CMS information. It is anticipated that information could change, and readers are encouraged to be mindful of this.*



Robin A. Bleier is the President of RB Health Partners, Inc., a clinical risk Medicare and operations consultancy firm that has a strategic alliance with Moore Stephens Lovelace and consults with FHCA on quality affairs. Robin can be reached at (727) 786-3032 or robin@rbhealthpartners.com.

CAPITOL CONNECTION, cont. from page 8

2017 legislative session...a breadth of issues

from their constituency, and it doesn't matter if you are an owner, administrator, nurse, certified nursing assistant, dietary, social services, activities or maintenance - you each have a compelling story to tell.

You may not realize there are a number of bills that FHCA's Government Affairs team will work on during a typical legislative session. We start the process by reviewing every bill that is filed in the House or Senate. Early on, the list ranges from just a few; however, as session goes on, we can expect to see anywhere from 20 to 30 bills filed each day. We review these bills to determine their effects on nursing centers or assisted living facilities — either positive or negative. We want to identify these bills as early as possible, because

often language is buried within lengthy bill text. So, for example, while at first glance a bill "relating to nutrition" may seem irrelevant, buried within that bill may be new language impacting how health care facilities can serve meals to residents. Typically, there are close to 4,000 bills filed each year, and we are just at the beginning.

We'll continue to keep you updated as we move into the session and want to encourage you to join us in Tallahassee if you haven't already made your plans. In the meantime, do your part to stay informed by reading our communications and accessing our digital tools. And as always, if you have questions about a legislative issue we're tracking, don't hesitate to contact your Government Affairs team. ♦

2012 Life Safety survey documents

By Max Hawth

If you have not yet downloaded both the new 2012 Centers for Medicare and Medicaid Services (CMS) Life Safety survey documents and the state of Florida's Life Safety survey documents, do so now and share a copy with your Maintenance Director. Both documents are on the FHCA website at www.fhca.org in the Life Safety section of the Facility Operations tab. Many centers are having major issues with numerous tags with the 2012 Fire-Life Safety Survey.

Doors and their hardware are a major concern of the surveyors. Fire doors must be positive-latching with top and bottom locking systems. If your center has fire doors with the bottom locking rods removed because they scraped the floor when closing and kept getting hit by the residents' wheelchairs, those doors must be replaced. Note that the hardware on each fire door must be UL rated, as it is a part of the tested assembly.

Surveyors need to see and confirm that each center has maintained a copy of its blue prints. Each center is responsible for maintaining an up-to-date Fire-Life Safety Evacuation Plan (signed and sealed by a Florida-licensed architect or engineer). Note that because of present code changes in sprinkling, the need for fire-rated doors and walls may now be less than what was originally required (possibly saving money) 59A-4 113(5).

It appears some centers are not requesting approval by the AHCA Office of Plans and Construction (AHCA-OPC) before center changes or modifications take place. When this is found by the surveyor, all the changes may have to be torn out and/or subjected to hefty fines. Therefore, it's extremely important to notify AHCA-OPC before remodels or changes by sending information to AHCA-OPC, 2727 Mahan Drive, Mail Stop #24, Tallahassee, FL 32308.

AHCA changes

The AHCA Life Safety Survey document is being revised (per Eddie Alday) to mirror that of the federal tags (CMS). This is expected to be completed by mid-February. Be sure to check the AHCA and FHCA websites for the new document and then print and share it with your maintenance directors.

AHCA-OPC changes

Per Scott Waltz, AHCA-OPC has added a Tampa Office. The office will have two teams and cover those centers located in the Tampa Bay area (Hernando, Pasco, Hillsborough, Pinellas, Manatee, and Sarasota counties). One new team is being added to OPC which will give them a total of 10 teams (Tallahassee-2, Tampa-2, Orlando-3, and Miami-3). One of the existing Tallahassee teams (C-Team) is being relocated to the Tampa Office. Three of the Tampa office positions have already been filled. The remaining positions will be filled as the new personnel complete their training. Some responsibilities will be transferred from

Orlando to Tampa as the territories are realigned. The office is located at 6702 N. Dale Mabry Hwy., Tampa, FL 33607.

*Remember

ALL SUBMITTALS ARE TO BE SENT TO TALLAHASSEE AHCA-OPC (2727 Mahan Drive; Mail Stop #24; Tallahassee, FL 32308) where they will be registered as received. Tallahassee will then distribute the submittals to the proper survey team.

CMS letters

On December 16, 2016, CMS issued S&C: 17-14-LSC, which dealt with a clarification concerning the installation of automatic fire sprinklers in concealed or attic spaces of health care facilities, specifically where Fire Retardant Treated Wood (FRTW) has been installed in attic spaces or used in the construction of roofs.

Also on December 16, CMS issued S&C: 17-15-LSC to notify State Agencies (SA) and other stakeholders that CMS will be using NFPA 101A, Guide on Alternative Approaches to Life Safety, 2013 Edition (referred to here as 2013 FSES), as one method for determining LSC equivalencies.◆



Max Hawth is President of Hawth Health Care Consultants in Lakeland and a frequent contributor to the FHCA Pulse on life safety issues. He can be reached at emhauth@aol.com or (863) 688-0863.

WELCOME NEW MEMBERS

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Crescent Lake House, Crescent City

The Cabana at Jensen Dunes, Jensen Beach

ASSOCIATE MEMBERS

Care Services Management, Murfreesboro, TN

Nation Health Rehabilitation, Edgewater, NJ

Business News

By Lorne Simmons, Moore Stephens Lovelace

Medicare premiums and deductibles for 2017

The Centers for Medicare and Medicaid Services (CMS) recently released the Medicare Part A and Part B premiums and deductibles for the calendar year 2017. The Notices indicate that the daily coinsurance for days 21-100 in a skilled nursing facility will increase to \$164.50 in 2017, an increase of \$3.50 per day compared to 2016. CMS announced the standard Medicare Part B monthly premium will increase from \$104.90 in 2016 to \$109.00. The MMA requires beneficiaries with higher incomes to pay a higher percentage of costs for Medicare Part B, so, depending on their income level and tax status, these beneficiaries will see monthly premiums ranging from \$134.00 to \$428.60. Annual deductibles for most people increased from \$166.00 to \$183.00.

Cardiac bundled payment final rule released

On December 20, 2016, CMS issued the final rule for Advancing Care Coordination Through Episode Payment Models (EPMs) the Cardiac Rehabilitation Incentive Payment Model. The agency also issued changes to the Comprehensive Care for Joint Replacement Model (CCJR) that finalizes bundled payment models for certain cardiac conditions and procedures in select geographic areas beginning July 1, 2017 through December 31, 2021. The final regulation introduces a new cardiac rehabilitation payment model for acute myocardial infarction (AMI), coronary artery bypass graft (CABG), and cardiac rehabilitation (CR) services.

The AMI and CABG Models will be implemented in 98 Metropolitan Statistical Areas, or MSAs. Eligible MSAs must have at least 75 AMI Model eligible cases among other criteria. Participant hospitals in the selected areas include all acute care hospitals participating in the Inpatient Prospective Payment System that are not currently participating in Models 2, 3 or 4 of the Bundled Payment for Care Improvement initiative for AMI or CABG episodes. The Cardiac Rehab Incentive Payment Model will be implemented in 45 geographic areas selected for the AMI and CABG models (MSAs) along with 45 geographic areas not selected for those models. To see which MSAs are included in the rule, go to <http://innovation.cms.gov/initiatives/epm>. The majority of Florida hospitals will be affected by this change and required to participate. Remember, the MSAs in the model are the geographical locations for the hospitals, not the post-acute providers.

Similar to the other bundled payment models, episodes will include Part A and Part B services in the bundle and begin with the admission

to the hospital and end 90 days after discharge. The hospitals will bear financial risk for the procedure, the inpatient stay and all care related to the patient's recovery.

We expect hospitals to be very careful with their selection of partners to exclude low quality and high-cost providers. So, if your facility is located in one of the areas impacted by the rule, you need to show your market's hospitals why you are the partner of choice.

SNF projected losses forecasted to increase in 2017

According to a recent report released by the American Health Care Association (AHCA) and Aon Global Risk Consulting, the nationwide overall loss rate for skilled nursing facilities is expected to grow by 6 percent annually, with claim frequency driving the increase at an expected 4 percent growth rate. The report provides estimates of loss rates, or the cost of General and Professional Liability to skilled nursing care centers on a per-bed basis. The projected 2017 loss rate, which is a combination of claim severity and frequency, is expected to increase to \$2,350 per occupied bed. This means that a nursing center with 100 occupied beds can expect approximately \$235,000 in liability expenses in 2017.

Unfortunately, and as you may already suspect, Florida's estimated loss is much higher than the national average. This year's data shows that three states in particular are projected to have higher-than-average loss rates per occupied bed in the coming year. Kentucky's projected loss rate is \$7,500 per occupied bed, with Florida coming in at \$7,400 and West Virginia at \$7,360. This contrasts sharply with an anticipated \$480 loss rate per occupied bed in Minnesota and \$500 in Massachusetts. Along with the increases in workers' compensation and health insurance premiums for employees this year, skilled nursing providers are facing an expensive year to protect themselves and their employees. Budgets may need to be revisited and costs monitored more closely as you navigate this unprecedented year of increases. ♦



Lorne Simmons and Sandy Swindling are with Moore Stephens Lovelace, P.A., FHCA's CPA Consultant. Learn more about MSL at www.msllcpa.com.



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Research into HCBS in assisted living

by Lee Ann Griffin

It has been reported to FHCA that assisted living communities providing services to Medicaid recipients in Florida are being asked to once again conduct self-assessments using the Agency for Health Care Administration's (Agency) Provider Self-Assessment Review Tool (FHCA *Pulse*, June 2016). The review tool is used to gauge the provider's compliance with home and community-based setting criteria, as well as possibly trigger an in-person monitoring visit by the Agency's Bureau of Medicaid Policy. Meeting home and community-based characteristics is a federal requirement for assisted living communities across the U.S. As such, the American Health Care Association/National Center for Assisted Living (AHCA/NCAL) is prioritizing time and resources to better understand the reach of this new Medicaid coverage of home and community-based services (HCBS) in assisted living.

AHCA/NCAL is in the process of developing a Request for Proposals that will be offered to researchers and consultants later this month. The goal for the research project is to inform national education and advocacy efforts in a variety of areas, such as rate ranges for Medicaid HCBS provided in assisted living, the number of Medicaid beneficiaries living in assisted living in each state, capacity restrictions, level of care criteria and existence of quality measures. AHCA/NCAL solicited feedback in the development of questions for their research project and will ask respondents to address feasibility for their set of research questions and to offer alternate question statements, if needed. Assisted living communities can access state and federal resources related to home and community-

based settings at www.fhca.org; Facility Operations; Assisted Living; HCBS.

HB 1001 still not implemented

As the 2017 legislative session gears up, it bears mentioning that key aspects of HB 1001 (2015) still await implementation. The last administrative rule version was promulgated in September 2016 and seems to have stalled again. The Department of Elder Affairs is seeking new language to address departmental concerns related to Medicaid but that were not part of HB 1001. Legislators had authorized assisted living communities to expand their assistance with self-administration of medication for certain independent residents, but regulatory authorities have stated that a two-hour training requirement embedded in the statute is dependent upon administrative rule development; therefore, leaving the key components of HB 1001 non-implementable.

As the Medicaid managed care plans consider all placement options, including assisted living, giving residents greater flexibility with assistance with self-administration of medication would have supported those placement considerations. ♦



Lee Ann Griffin is FHCA's Director of Regulatory & Education Development. She can be reached at lgriffin@fhca.org.

Nominations sought for 2017 Excellence in Nursing Awards

FHCA is seeking nominations for the annual Long Term Care Excellence in Nursing Awards, which recognize nurse leaders who daily demonstrate their commitment to quality care through their dedication to residents and staff. Awards will be presented in each of the following categories: Nurse Administrator of the Year, Registered Nurse of the Year, Licensed Practical Nurse of the Year, Certified Nursing Assistant of the Year and the Rising Star in Nursing Award.

Nominees for the Nurse Administrator, RN, LPN and CNA award categories must have been employed at an FHCA member skilled nursing center or assisted living community for at least two years and have held a license/certificate for at least 30 months. The Rising Star in Nursing Award recognizes an emerging nurse leader who has demonstrated excellence in nursing and person-centered care practices and has worked in an FHCA member center or at the corporate level for 5-10 years. For all award categories, individuals may nominate more than one nurse/CNA from their center.

Award winners will be recognized during the Long Term Care Excellence in Nursing Awards Luncheon on Thursday, June 1, during the 2017 Nurse Leadership Program, which takes place May 31 - June 2 at the Don CeSar Hotel in St. Petersburg Beach.

For more information about the Long Term Care Excellence in Nursing Awards, visit the Nurse Leadership Program link under the Events tab of FHCA's website at www.fhca.org. The deadline to submit nominations is March 27, 2017.

good news

florida health care association around the state

Quality Cabinet

Members of FHCA's newly-established Quality Cabinet gathered in Tampa last month to discuss future initiatives of the Association, including how to address Florida's health care workforce shortage. Pictured from left: Deborah Franklin, FHCA Sr. Director of Quality Affairs; James Duckworth and Jarrett Caropelo, Medline Industries/Quality Cabinet meeting sponsor; Scott Allen, FHCA Quality Cabinet Chair; and Urvi Patel, American Health Care Association.



Last month, FHCA's Emergency Preparedness Council welcomed research team members from three universities in Taiwan. The visit provided an opportunity for these individuals to learn about best practices in long term care emergency preparedness.



Going Pro

Over the holidays, Professional wrestler and retired NFL player Titus O'Neil met with the residents at Whispering Oaks in Tampa. O'Neil makes this visit annually, bringing gifts and spreading good cheer.

FHCA on the Web...www.fhca.org

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UPCOMING EVENTS

Some meetings noted herein may also carry CE credits.
Additional information and registration
can be found at www.fhca.org.

MEETINGS/EVENTS

FEBRUARY

February 10, 2017
FHCA Board of Directors Meeting
Tallahassee, FL

MARCH

March 15, 22 and 29, 2017
FHCA Lobby Wednesdays
Tallahassee, FL

APRIL

April 5 and 19, 2017
FHCA Lobby Wednesdays
Tallahassee, FL

CONTINUING EDUCATION/TRAINING

FEBRUARY

February 2-3, 2017
FHCA NIPing Infections in the Bud
Specialized Training in Infection Prevention & Control
Health Central Park
Winter Garden, FL

MARCH

March 23-24, 2017
FHCA NIPing Infections in the Bud
Specialized Training in Infection Prevention & Control
MorseLife Health System
West Palm Beach, FL

APRIL

April 25-27, 2017
FHCA RAI-MDS-PPS Bootcamp
Hawthorne Health and Rehab of Brandon
Brandon, FL



Scholarship opportunities available for long term care employees

FHCA member certified nursing assistants (CNAs), nurses and other long term care employees looking to advance their career will want to learn more about the scholarship opportunities available through the Florida Health Care Education & Development Foundation. Foundation scholarships award the best and brightest among FHCA's member centers who are interested in achieving a higher level of education. Two scholarship opportunities exist - the Bruce Taylor Scholarship, which is offered to CNAs and nursing staff interested in advancing to an LPN, RN or ARNP level, and the Career Climb Scholarship, offered to non-nursing staff interested in pursuing higher education to support their long term care career.

Applications for both scholarship programs are available on the FHCA website and include more information about eligibility and submission requirements. Applications are accepted for consideration three times a year — April 30, August 30 and November 30. Scholarship awards can range as high as \$1,000 and are exclusive to employees of FHCA member nursing centers and assisted living communities. To learn more, visit the website at www.fhca.org/education/scholarships.♦

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Since becoming an approved service corporation company for FHCA in 1993, Edge has helped over 250 FHCA members meet their background screening requirements and kept them informed of pertinent legislative issues. Edge offers a variety of background checks including: drug screening, fingerprints, criminal, sexual offender, license verifications and references. Contact Nate Archibald at (321) 676-8822 or by email at natea@edgeinfomation.com, or visit www.edgeinfomation.com for more information.



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HPSI PURCHASING SERVICES

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OFFICE DEPOT

Office Depot offers Florida Health Care Association members extra discounts and services due to the cooperative purchasing power of FHCA. We offer a wide variety of benefits, including 50 items which have been reduced based on volume ordering up to 80 percent off the list prices (the "High Use Item List"); next-day delivery on everyday office products; an award-winning Web site which links you to your pricing and into the warehouse and keeps 12 months of tracking information at your fingertips. For more information or to set up an account contact Terry Bush at terry.bush@officedepot.com or (850) 624-9979.



SENIOR CRIMESTOPPERS

The Senior Crimestoppers program is a proven, effective, proactive crime prevention system that combines proven components to help provide safe, crime-free facilities for residents, staff, visitors and vendors. Personal lock boxes for use by residents and/or family members, an around-the-clock, completely anonymous "tip line" call center, cash rewards of up to \$1,000 posted on any and all incidents that occur and educational materials for residents, families, management and staff members are a few of the components that make up the program. More details can be found at www.seniorcrimestoppers.org or contact Kay Joest at (800) 529-9096 for more details.

Florida Health Care Association



Nurse Leadership Program, May 31- June 2

Leading advocate and dementia specialist Teepa Snow and Agency for Health Care Administration Chief of Field Operations Kim Smoak will top the agenda. General sessions and breakouts are geared toward the skilled nursing and assisted living professional and will focus on the new facility assessment, caring for persons with dementia, person-centered and baseline care planning, as well as compliance strategies related to the CMS Reform of Requirements.

Registration includes up to 14 contact hours of continuing education, awards luncheon, continental breakfasts, refreshment breaks and welcome reception with tabletop expo. LPN Supervisory Training and CNA Train-the-Trainer pre-sessions on May 30 also available for an additional fee.



Teepa Snow
Positive Approach, LLC

Register by April 12 to Save on Fees

For more information, visit www.fhca.org/events/nlp.