

# **Regulatory Issues in Long Term Care: An Agency for Health Care Administration Assessment**

- **The Financial Implications of Liability Insurance  
Premium Increases**

**Practitioners** – The Select Task Force on Healthcare Professionals

**Facilities** – Facility Closures/Financial Monitoring

- **The CMS Quality Indicator Pilot Program and Florida**
- **SB 1202, Where Do We Stand in 2002**

# **Liability Insurance Requirement**

- **Insurance required for nursing homes and assisted living facilities**
- **Recent changes for nursing homes – now require general and professional liability insurance**
- **No minimum coverage amounts are required**
- **No nursing home licenses have been denied or revoked to date for failure to have insurance**
- **The Risk Retention Group is working on a product to be available this fall – primarily assisted living facilities**
- **\$6 million advance to Risk Retention Group for capitalization of the fund**

# **Quality Measures**

- **Nursing Home Risk Management**
- **Nursing Home and Assisted Living Facility Adverse Incident Reporting**
- **Increased Monitor Visits by the Agency**
- **Nursing Home Staffing Requirements**
- **Staff Training**
- **Discharge and Transfer**
- **Liability Insurance**
- **Care Plan Signed by DON and Resident**
- **Physician Referral for Signs of Dementia or Cognitive Impairment**
- **Daily ADL Charting**

# **AHCA Annual Adverse Incident Report**

## **AHCA Annual Report to Legislature detailing:**

- **Total number of adverse incidents by county**
- **Categories of incidents and type of staff involved**
- **Types and number of injuries by category**
- **Types of liability claims filed**
- **Disciplinary action taken against staff**
- **Separate data for nursing homes and assisted living facilities**

**Report available at:**

**<http://www.fdhc.state.fl.us/Publications/index.shtml>**

# **AHCA Annual Adverse Incident Report**

**May 16, 2001 through September 30, 2002**

- **17,659** adverse incident reports processed
- **6,058** determined by facilities to be adverse incidents
  - 4,250** nursing homes
  - 1,808** assisted living facilities
- **Nursing Homes**
  - 493** inspections completed
  - 108** inspections with deficiencies (22%)
- **Assisted Living Facilities**
  - 149** inspections completed
  - 57** inspections with deficiencies (38%)

# Adverse Incident Outcomes

May 16, 2001 through September 30, 2002

## Nursing Homes

2,078	Event Required Transfer
1,393	Fracture or Dislocation
1,207	Abuse (Ch. 415)
425	Elopement
354	Event Reported to Law Enforcement
43	Death
35	No Consent
15	Functional Limitation
7	Brain or Spinal Damage
2	Disfigurement

## Assisted Living Facilities

1,144	Event Required Transfer
600	Fracture or Dislocation
301	Event Reported to Law Enforcement
265	Elopement
175	Abuse (Ch. 415)
46	Death
15	No Consent
1	Disfigurement

# Total Number of Adverse Incidents by County

May 2001 through September 30, 2002

County	# Nursing Home Incidents	# ALF Incidents	County	# Nursing Home Incidents	# ALF Incidents
Alachua	49	19	Lake	50	40
Baker	5	0	Lee	129	108
Bay	87	32	Leon	96	29
Bradford	16	6	Levy	21	2
Brevard	132	49	Liberty	0	1
Broward	129	77	Madison	13	0
Calhoun	12	1	Manatee	98	34
Charlotte	62	41	Marion	64	29
Citrus	73	20	Martin	48	6
Clay	22	7	Monroe	13	1
Collier	48	75	Nassau	17	2
Columbia	12	23	Okaloosa	158	14
Dade	248	46	Okeechobee	10	0
DeSoto	3	1	Orange	211	81
Dixie	0	0	Osceola	107	8
Duval	141	25	Palm Beach	277	108
Escambia	112	59	Pasco	63	102
Flagler	16	2	Pinellas	536	217
Franklin	0	0	Polk	96	50
Gadsden	16	4	Putnam	25	8
Gilchrist	5	0	St Johns	33	2
Glades	0	0	St Lucie	81	27
Gulf	5	0	Santa Rosa	45	22
Hamilton	2	0	Sarasota	129	170
Hardee	5	5	Seminole	52	70
Hendry	71	1	Sumter	20	0
Hernando	30	9	Suwannee	46	3
Highlands	44	13	Taylor	10	0
Hillsborough	124	90	Union	0	0
Holmes	7	1	Volusia	192	36
Indian River	28	20	Wakulla	0	0
Jackson	54	9	Walton	11	1
Jefferson	6	0	Washington	26	2
Lafayette	9	0	<b>Grand Total</b>	<b>4,250</b>	<b>1,808</b>

# Adverse Incident Report

**Q** – What should a facility provide in the adverse incident report?

**A** – All the questions on the Adverse Incident Report forms should be answered. The description of the incident should include answers to basic questions like Who, What, Where, When, Why, which allows AHCA reviewers to determine appropriate action.



# Adverse Incident Reporting

**Q** – If, prior to the required report date, facility staff determine that an incident does not meet the definition of an adverse incident as specified in statute, is a report to the Agency still required?

**A** – Only those incidents that meet the definition of an adverse incident must be reported to the Agency. If the facility is able to determine that the incident does not meet the definition prior to the required report date, then a report is not required. However, if the facility has not yet determined if the incident meets the adverse incident definition the incident must be reported on the 1-Day report. After the facility investigation is complete and if it is determined that the incident does not meet the definition of an adverse incident, then the facility staff may report on the 15-Day report that the incident was determined not to be an adverse incident.

# Adverse Incident – Elopement

**Q** – How is “elopement” defined for the purposes of adverse incident reporting?

**A** – Elopement is when a resident leaves the facility without following facility policies and procedures for signing out.

## Adverse Incident – Baker Act

- Q** – Baker Act referrals and risk management reporting requirements:  
Does a facility have to report a call for law enforcement transportation as an adverse incident?
- A** – Events reported to law enforcement for investigation are considered adverse incidents pursuant to sections 400.147(5)(e), F.S. A call to law enforcement for something other than investigation, e.g.: transportation only, would not alone meet the definition of an adverse incident. However, a Baker Act situation must be reviewed independently to determine if it meets one of the definitions of an adverse incident.

# Staff Disciplinary Actions through September 30, 2002

## Adverse Incident Reports – Nursing Homes and Assisted Living Facilities

<b><u>Referred for Investigation</u></b>	<b>896</b>
Certified Nursing Assistant	644
Licensed Practical Nurse	177
Registered Nurse	55
Nursing Home Administrator	4
Pharmacy	4
Physical Therapy Assistant	3
Medical Doctor	2
Pharmacist	2
Consultant Pharmacist	1
Non Jurisdictional Complaint	1
Occupational Therapy Assistant	1
Osteopathic Physician	1
Physical Therapist	1

### **746 Investigations Completed**

111 Probable Cause Found

266 Dismissed

**15 emergency actions taken against practitioners (CNAs).**

# Liability Claims Reported to AHCA

May 16, 2001 through September 30, 2002

- 1,388 liability claims reported:
  - 1,299 nursing homes
  - 89 assisted living facilities
- 1,249 (90%) of liability claims reported for incidents or residency dates prior to May 2001, and extend as far back as 1990
- 139 claims are for incident dates or residency dates since May 2001

# Top Reasons for Claims Reported

May 16, 2001 through September 30, 2002

## Nursing Homes

289	Other
172	Death
143	Fracture
100	Abuse
89	Transfer Involved

## Assisted Living Facilities

17	Other
14	Fracture
15	Death
13	Transfer Involved
10	Abuse

# Enhanced Enforcement

- Controlling Interest Information Disclosure
- Six-Month Survey Cycle for Nursing Homes
- Changes in Classification of Deficiencies
- Mandatory Fines for Violations
- Enhanced Grounds for Agency Action
- Required Nursing Home Revocation or Denial for Certain Violations

# Staffing Information

**Since January 1, 2002 – 147 facilities cited for one of the following staffing citations:**

- 121 citations for failure to meet the minimum staffing standards in the statute (N063)
- 52 citations for failure to have sufficient staff to meet resident needs (F353)
- 14 citations for failure to self-impose a moratorium if staffing ratio is not met for 2 consecutive days (N069) mandatory Class II deficiency



# Report Staffing Information Nursing Homes

- AHCA collects semi-annual reporting of staff ratios, turnover and stability
- Next report:
  - Was sent to all facilities in September 2002
  - Due October 15, 2002

# Gold Seal Award Recipients

- River Garden Hebrew Home for the Aged (Jacksonville)
- The Pavilion for Health Care (Penney Farms)
- John Knox Village Medical Center (Tampa)
- Florida Presbyterian Homes (Lakeland)
- Menorah Manor (St. Petersburg)
- Memorial Manor (Pembroke Pines)
- Human Resources Health Center (Miami)
- Village on the Green (Longwood)
- Bon Secours Maria Manor Nursing and Rehabilitation Center (St. Petersburg)

1 Additional Recommended Recipient: Harbour's Edge (Delray Beach)