

## President's Message



**FLiCRA** has delivered again for you – more legislative success! The first news in this message has to be that the FLiCRA/LeadingAge Continuing Care bill passed in the Florida 2015 Legislative

Session.

This legislation means additional financial protection for residents of continuing care retirement communities (CCRCs). The legislation becomes law effective October 1, through the 15 amendments to Chapter 651, Florida Statutes. This didn't just happen automatically – it was a process. I can't help but link the sequence of action, undoubtedly unwittingly, with "game theory." Game theory was employed from the beginning of the process and continued throughout to bring this result.

First, your FLiCRA Board noted regularly the impact of the economic downturn of the past several years that resulted in lower occupancy in many CCRCs, and thereby affected their financial stability. A discussion focused on a need to acknowledge a problem that, even with a slow trend, was not difficult to recognize. Along with the resource information provided from the Office of Insurance Regulation (OIR), it was apparent this had become more than normal fluctuations of "ups and downs."

The Governor's Continuing Care Advisory Council's recommendation that the CCRC viability situation be addressed by a Joint Task Force (comprised of an equal number of members of FLiCRA, the resident association, and of LeadingAge, the provider association) confirmed our general approach not to "wait it out."

Next, over a year of Task Force meetings involved real sweat equity as more game theory took place. This is not a "game" in the recreational sense, but in meeting with an allied group and a regulatory agency, this process met the terms of game theory in the tactics and strategy used for an end product of proposed legislation. Let me be so bold as to make a comparison and cite game theory. The study of strategic decision-making with models of conflict and cooperation between intelligent decision-makers was used as far back in U.S. history as by President James Madison, as a primary author of the U.S. Constitution; admittedly, this predates the term "game theory."

Still being developed, game theory is a serious and important tool in many fields. Eleven game theorists have won the Nobel Prize, even as recently as 2014 (in Economic Sciences).

*Continued on Page 2*

---

**FLiCRA Annual Conference**  
 November 4 - 5, 2015  
 Edgewater Pointe Estates, Boca Raton

Volume XXV  
 Issue 2  
 2nd Quarter  
 2015

**In This  
 Issue**

**President's  
 Message**  
 Page 1

**Providers Ready  
 for Baby  
 Boomers**  
 Page 3

**2015 Legislative  
 Session  
 Outcomes**  
 Page 4

**Assisted  
 Living Reform  
 Bill Passes**  
 Page 6

**CCRC House  
 Bill Sponsor**  
 Page 8

*"A Resident-Led  
 Association to  
 Ensure Quality  
 of Life in  
 Retirement  
 Communities"*

*Continued from Page 1*

In order to be able to use optimal strategies, what it came down to in several important Task Force decisions was a determination of the probability of what the results could be of those respective actions. Based on information available, acknowledging that there really was no perfect information for a starting point, but that enough was provided from expert sources regarding our proposals, we all needed to concur it would result in our collective well-being in this interdependent situation (residents, management, and regulators).

When it came to getting the bills filed and heard, I contend that game theory still applied to the guidance and follow-through provided by the know-how and savvy of FLiCRA's and Leading Age's advocacy teams in Tallahassee. They made the right decisions at the right time, selected the right

legislative sponsors for the bills and monitored the legislative committee meetings for both House and Senate.

FLiCRA secured State Representative Charles Van Zant as the House Sponsor. His mother-in-law is a resident at Penney Farms, a CCRC in Northeast Florida. LeadingAge Florida secured the Senate sponsor, Senator Thad Altman. He represents the Founding FLiCRA chapter at Indian River Estates, East and West in Vero Beach.

With the outcome resulting in legislation that addresses the main concerns of the perceived issues that arose in providing more financial protection for residents, we can consider our actions provided the "payoffs" we strived for, within the framework available to us, to be proactive vs. reactive for the foreseeable future.

*Continued on Page 5*


---

## 2014 - 2015 FLiCRA State Board of Directors

**President**

Pat Arends  
Freedom Village  
jparends@aol.com

**Region 2 Director**

Gene Crabtree  
Fleet Landing  
jtcrabtree@bellsouth.net

**Region 8 Director**

Wayne Forehand  
Oak Hammock  
wayne@gator.net

**Vice President & Region 4 Director**

James "Jim" Kenton  
Indian River Estates, West  
twoks@bellsouth.net

**Region 3 Director**

Steve Nash  
Village on the Green  
snash5@cfl.rr.com

**Directors At-Large**

Robert Smith  
The Estates at Carpenters  
jms910@tampabay.rr.com

**Secretary**

Earle DuBois  
La Posada  
earledub@aol.com

**Region 5 Director**

Alvin Perlman  
Abbey Delray South  
ellenandal@bellsouth.net

Hugh Strachan

St. Andrews, North  
hugh\_muff@comcast.net

**Treasurer & Region 1 Director**

Rodney R. Letchworth  
Westminster Oaks  
rodletchworth@hotmail.com

**Region 6 Director**

John Hickey  
Vi at Bentley Village  
capthick@comcast.net

**Immediate Past President**

Milton Burdsall  
Indian River Estates, West  
miltandpat@msn.com

**Executive Director**

Bennett E. Napier, CAE  
bennett@executiveoffice.org

**Region 7 Director**

Glenn Van Doren  
Regency Oaks  
gvandoren2@tampabay.rr.com

---

## As Providers Ready for Baby Boom, Senior Housing Set to ‘Explode’

Senior care providers have long been tasked with anticipating the wants, needs and preferences of tomorrow’s resident. But now, they’ll have to re-imagine what maturity and growing older really means as they prepare for the new wave of their most demanding consumers.

But it’s not just the boomer age wave and increasing longevity that is propelling what some are saying will be an “explosion” of housing, services and products needed to support the impending demand, according to some experts in the aging field during the American Society on Aging’s annual Aging in America Conference in Chicago recently.

“This is a new frontier,” said Ken Dychtwald, president and CEO of Age Wave, during the ASA conference. “This longevity revolution has never happened before and everything that comes along with it will require new services, new products and new ideas.”

Age Wave provides companies with research and education to better understand the challenges and opportunities within the aging marketplace. Among his comments, Dychtwald included predictions on which products and services will “explode” to meet the needs of this aging population.

Recently, the company teamed with Merrill Lynch on a retirement study, which emphasized that the tremendous growth of age 65-plus households over the next decade will have widespread implications for how communities nationwide should prepare for an aging population.

Senior housing and care providers stand to benefit from the “caregiver crunch” currently taking root today. And that’s due largely to three major demographic changes that are already happening, Dychtwald said.

As the age 50 and older population is projected to increase about 20% by 2030, the ratio of potential

family caregivers for adults over age 80 will decrease from 7:1 today to 4:1, according to a report last year from the AARP Foundation and the Harvard Joint Center for Housing Studies.

Boomers have had fewer children compared to their parents, inadvertently creating a short supply of caregivers for when they will need such attention. This coincides with the AARP and Harvard’s JCHS findings, which also indicated that a significant share of the youngest Boomers, aged 50 to 59, don’t have children who might take care of them as they age.

Also, women continue to remain active in the workforce and will be for longer spells, thus limiting the caregiver pool even further since adult daughters tend to be the first to fill the caregiving role.

Meanwhile, all of this is happening during a time when families may be relocating to other parts of the country, in many cases, away from family members. “And so, industries that can care for people as they age are about to go wild with growth,” Dychtwald said.

For an industry like senior living, where a considerable share of residents might have family living remotely either in a different state or different region of the U.S., the blend of housing-plus-care services addresses a huge need.

But like other industries operating in the aging care sector, senior living will also be further challenged with shifting how it attracts and appeals to an evolving, sophisticated consumer, whether that means playing tug-of-war with Boomer’s expectations to prove their communities are anything but “your grandma’s nursing home,” or differentiating via design.

Source: Jason Oliva  
*Seniors Housing News*

## 2015 Legislative Session Outcomes

### Continuing Care Retirement Communities – House Bill 749/Senate Bill 1126

This legislation was the work product of a joint task force comprised of the providers association (LeadingAge Florida) and the residents association (FLiCRA) and was supported by both groups.

House Bill 749 passed the House and Senate. The bill has been presented to the Governor and he has until June 10th to sign the bill. The law takes effect October 1, 2015.

- This legislation strengthens certain regulatory requirements pertaining to CCRC contracts and provides for enhanced disclosures to residents and accelerated refunds to residents on certain types of contracts.
- On certain contract types, requires a continuing care retirement community (CCRC) to make entrance fee refunds within 90 days after the contract is terminated and the unit is vacated vs. current law which requires the refund to be made no later than 120 days after the resident gives notice of intent to cancel.
- Codifies into law the long-standing practice of some CCRCs to enter into contracts (approved by OIR) that tie entrance fee refunds to the next entrance fee received for the unit that is vacated or a like or similar unit, whichever is applicable. However, contracts that tie a refund to the unit that is vacated will not be permitted after October 1, 2016.
- Effective January 1, 2016, requires CCRCs with contracts that tie entrance fee refunds to the next entrance fee received for a “like or similar unit” to include a maximum time frame to be set by the provider for making a refund when the contract is not voluntarily terminated.
- Defines “like or similar unit.”
- For contracts issued on or after October 1, 2015 that are voluntarily terminated and tie the refund to the receipt of the next entrance fee for a like or similar unit, the refund must be made within 30 days of receipt of the next entrance fee for whatever unit or unit type is specified in the contract.
- Clarifies that CCRCs must be accredited without stipulations or conditions for OIR to waive equivalent requirements in rule or law.
- Requires a representative of the provider to give a copy of the final examination report and corrective action plan, if one is required by the office, to the governing body of the provider within 60 days of the issuance of the report.
- Clarifies and strengthens the role of a residents’ council.
- Modifies language to better ensure resident claims are considered preferred claims behind secured creditors.
- Requires a facility that files for chapter 11 bankruptcy to include the name and contact information of a designated resident selected by the residents’ council for consideration by the court to serve on the Creditors’ Committee.
- Provides that a board of directors or governing board of the license provider may at its discretion allow a resident of the facility to be a voting member of the board or governing body of the facility. Provides guidance on how this may be achieved.
- Requires every CCRC to provide a copy of the most recent third-party financial audit to the president or chair of the residents’ council within 30 days after filing the annual report with OIR.

Thank you goes out to State Representative Charles Van Zant who has the Penney Farms FLiCRA chapter in his district and State Senator Thad Altman who has the Indian River Estates, East and West FLiCRA chapters in his district. They were the bill sponsors for this legislation.

**Hospital Observation Days –  
House Bill 309/Senate Bill 768**

The legislation will require hospitals to provide notice to Medicare beneficiaries when they are discharged from the hospital of their status as it relates to admitted or observation status.

House Bill 309 passed the House of Representatives and the Senate and will be acted on by the Governor in late May or early June.

FLiCRA supported this legislation however; it along with LeadingAge Florida and AARP seek language that would provide notice at time of entering the hospital.

**Assisted Living Facilities –  
House Bill 1001/Senate Bill 382**

These bills address recommendations from the Governors Assisted Living Task Force. This would allow consumers and caregivers to compare assisted living facilities which are already required for nursing homes.

House Bill 1001 passed the House and Senate. The Governor will take action on this bill in late May or early June. FLiCRA supported this legislation. (See article on Page 6).

**State Ombudsman Program –  
House Bill 293/Senate Bill 7018**

This legislation revises the duties of the Office of State Long-Term Care Ombudsman; revises conflict of interest policies for those serving as ombudsman volunteers; and modifies the requirements in terms of what long-term care facilities have to provide to representatives of the ombudsman program.

Senate Bill 7018 passed the House and Senate. The Governor has already signed this bill. FLiCRA supported this legislation.

**Nursing Home Facility Pneumococcal Vaccination  
House Bill 411/Senate Bill 332**

These bills require a resident of a nursing home to be assessed for eligibility for the pneumonia vaccination or revaccination.

Senate Bill 332 passed the House of Representatives and Senate. The Governor has already signed this bill.

**Health Care Representatives  
House Bill 889/Senate Bill 1224**

These bills provide exception for a patient who has a designated surrogate to make health care decisions and receive health information without determination of incapacity being required; revises suggested form for designation of health care surrogate; provides for designation of health care surrogates for minors; provides suggested form for designation of health care surrogate for minor; provides for notification of incapacity of principal.

House Bill 889 passed the House of Representatives and Senate. The Governor will take action on this bill in late May.

---

**President's Message  
*Continued from Page 2***

Even with the elation over our legislative success, it's not "game over." The result of the law may not be all we hoped it could be – "good enough never is." This has been the case through successive notable FLiCRA legislative achievements, where it took experienced, perpetual, ongoing efforts to bring forward successive legislative amendments to strengthen our position.

Here is an excerpt from "On Old Age," an essay written by Cicero in 44 BC: "Old age will only be respected when it fights for itself, maintains its rights, avoids dependence on anyone, and asserts control over its own to the last breath." That sounds to me like what FLiCRA fights for, for CCRC residents - Us.

All that is outlined in my message is in no way meant to dramatize or glorify the work described, or elicit praise from our membership for just doing our job, but to assure our residents that we've "got your back."

Pat Arends, FLiCRA President  
jparends@aol.com

## Assisted Living Reform Bill Passes

In 2010, Governor Scott convened a Task Force to study and develop comprehensive regulatory changes to address a Miami Herald investigative report which found some very disturbing and life threatening situations in a few Assisted Living Facilities (ALF). FLiCRA Past President Charlie Paulk served on the Task Force.

After four previous attempts to pass reform, the 2015 Legislature passed House Bill 1001. The bill becomes law July 1, 2015.

The key provisions of most interest to residents is provided in this article.

### Section 1:

- Requires that the case manager of a mental health resident who resides in an ALF with a limited mental health license provide to the administrator within 30 days of the resident's admission a community living support plan.
- Requires that the case manager update the community living support plan annually or when there is a significant change in the resident's behavioral health status. The case manager will be required to maintain face-to-face interaction with the resident and make records available to the responsible entity for inspection.
- Requires mental health providers to retain records for 2 years.
- Requires case managers to consistently monitor community living support plans and cooperative agreements.

### Section 2:

- Amends s. 429.0074 to require that any administrative assessment of an ALF completed by a representative of the local Ombudsman Council be comprehensive. In addition upon the completion of the assessment, requires the local Ombudsman Council to conduct an exit consultation with the facility's administrator or designee to discuss issues and concerns in the areas affecting residents, rights, safety, and welfare and, if needed, make

recommendations for improvement.

### Section 3:

- Amends s. 400.0078 to require ALFs to inform new residents that retaliatory action cannot be taken against a resident for presenting grievances and/or exercising any other right. This must be done in addition to giving information to new residents about the state Long-Term Care Ombudsman Program.

### Section 6: Extended Congregate Care/Limited Nursing License

- Reduces monitoring visits for facilities with an ECC license from quarterly to twice a year and authorizes AHCA to wave one of the monitoring visits if the facility has held an ECC license for at least 24 months and has had no class I or class II violations or uncorrected class III violations and no Ombudsman Council complaints that resulted in a licensure citation.
- Reduces the monitoring visit for facilities with a limited nursing license from twice a year to at least annually and authorizes AHCA to make the visit in conjunction with other agency inspections or waive the annual monitoring visit if the facility has no class I and II violations and no uncorrected class III violations and no Ombudsman Council complaint that resulted in a citation for licensure.

### Section 8,9 & 10: Violations and Penalties

- Amends s. 429.14 to replace the term "deficiencies" with "violations."
- Specifies that AHCA must deny or revoke a license for the following:
  - a. 2 or more moratoria issues and in final order within a 2 year period.
  - b. 2 or more class I violations arising from unrelated circumstances during the same period of time.
  - c. 2 or more class I violations arising from separate surveys or investigation.
- Requires AHCA to impose an immediate moratorium on an ALF that fails to provide surveyors with access to the facility and prohibits a

licensee from restricting access by AHCA staff to any records or from conducting confidential interviews with facility staff and residents.

- Provides an exemption from the 45-day notice required of ALFs to inform residents of their relocation if the relocation is due to AHCA action.
- Requires AHCA to impose a \$500 fine if a facility is not in compliance with background screening requirements for staff.

### **Section 11: Assistance with Self-Administration of Medication**

- Amends s. 429.256 to allow ALF staff who have completed required training to do the following additional tasks:
  - a. Assist with an insulin syringe that is pre-filled by a pharmacist and an insulin pen that is pre-filled by the manufacturer.
  - b. Assist with the use of a nebulizer.
  - c. Assist with use of a glucometer to perform blood-glucose level checks.
  - d. Assist with putting on and taking off anti-embolism stockings.
  - e. Assist with oxygen cannula but not with titration of the prescribed oxygen settings.
  - f. Assist with measuring vital signs.
  - g. Assist with colostomy bag.

### **Section 12: Property and Personal Affairs of Residents**

- Amends s. 429.27(3) to increase the amount of cash that a facility may provide safe-keeping for a resident from \$200 to \$500.

### **Section 13: Resident bill of rights**

- Amends s 429.28 to require ALFs to include Disability Rights Florida (DRF) in the required posted notice of Residents' Rights. The notice must also state that a complaint has been made. The names and identities of the residents involved in a complaint to the State Ombudsman Council will remain confidential.
- Directs AHCA to adopt rules for uniform standards and criteria that will be used to determine compliance with facility standards and compliance with residents' rights.

- Requires AHCA to impose a fine of \$2,500 if an ALF terminates the residency of an individual who participates in activities to exercise any right under this section, appears as witness in any hearing inside or outside a facility and files a civil action.

### **Section 14: Right of Entry and Inspection**

- Amends s. 429.34 to require any person with knowledge or reasonable cause to suspect that a vulnerable adult has been or is being abused, neglected or exploited to immediately report the incident to the central abuse hotline.
- Requires AHCA to inspect every ALF every 24 months to determine regulatory compliance.

### **Section 15: Rules establishing standards**

- Amends s. 429.41 to clarify that staffing requirements for CCRCs or a community providing multiple levels that license a building designated for independent living or assisted living apply only to residents who receive personal, limited nursing or extended congregate care services.
- Required such facilities to retain a log of names and unit numbers of residents receiving ALF services and make this information available to surveyors.

### **Section 16: Staff training and Educational programs**

- No general provisions directly impacting residents.

### **Section 17: Web-Page**

- Amends s. 429.55 to create a modified and expanded ALF consumer web-page, expanding on the current information on AHCA's website that you can find on Healthfinder.gov currently. The expanded web page will include a significant amount of additional information intended to help consumers when selecting an ALF.

**FLiCRA**  
**325 John Knox Rd, L103**  
**Tallahassee, FL 32303**  
**www.flicra.com**

PRESORTED  
STANDARD  
U.S. Postage  
PAID  
Tallahassee, FL  
Permit #801

---

## **CCRC House Bill Sponsor - A Husband & Wife Team**

As shared in weekly legislative email reports to FLiCRA members, the House Bill sponsor of the CCRC bill this year advocated by FLiCRA and LeadingAge Florida, was Representative Charles Van Zant. Representative Van Zant is term limited from serving after the 2016 session.

His wife Katherine Van Zant is running for his House seat for the 2016 election cycle. She is very interested in FLiCRA issues as her mother resides at Penney Farms, a continuing care retirement community.

To FLiCRA's knowledge, there has not been a sitting state legislator with such a direct relationship with the continuing care retirement community industry.



**Pictured L-R:** Eric Thorn, Esq., FLiCRA In-House General Counsel; Bennett Napier, CAE, FLiCRA Executive Director; Katherine Van Zant; Representative Charles Van Zant