



ALR Commission Meeting #4

Thursday, April 17 | 1:00 PM

Your Partners in Aging.

Agenda

1. **Opening | Secretary Robin Lipson (15 mins)**
 - Welcome & Attendance
 - Refresher & Updates
 - Guiding Discussion Questions
2. **Presentations**
 - **Massachusetts Consumer Protections for ALR Residents & Families** | Whitney Moyer, Executive Office of Aging & Independence (5 mins)
 - **Transparency and Consumer Protections: The Consumer Perspective** (30 mins)
 - Rose-Marie Cervone, BSN, MPA, RN
 - Liane Zeitz, CELA*, Esq., Law Office of Liane Zeitz
 - Lindsay Mitnik, Esq., Greater Boston Legal Services
 - Kathleen Lynch Moncata, Esq., Moncata Law Office
3. **General Discussion (30 mins)**
4. **Wrap-Up | Secretary Robin Lipson (5 mins)**
 - Roadmap and Proposed Topics & Presenters for May 7th Meeting



Refresher & Updates

Secretary Robin Lipson



ALR Commission Action Items

Focus of Today's Presentations

During today's discussion, keep in mind:

- **Previously discussed models and best practices**
- Upcoming conversations about **ensuring safe and effective care**

- Review current statutory and regulatory oversight of assisted living residences for **improvement opportunities**.
- Evaluate how licensing and certification affect ALR **operations and care quality**.
- Assess incident reporting trends (using data from the Executive Office of Aging & Independence and the Long-Term Care Ombudsman's office) to identify **recurring issues and solutions**.
- Examine best practices from other states to **identify innovative, adaptable strategies**.
- Scrutinize advertising practices to **ensure clear, transparent information for prospective residents and families**.
- Explore methods to **enhance consumer transparency** by improving information accessibility and comparability.
- Review **consumer protections** in existing statutes and regulations.
- Discuss **safety standards** Investigate the delivery of basic health services to **ensure safe and effective care**.
- Analyze regulatory procedures for opening, closing, or transferring residence ownership—including community need assessments and facility clustering—to better protect consumers.

Upcoming Public Hearing | *What You Need to Know*

When: Thursday, May 15, 2025, 1:00 – 3:00pm

Where: Virtually via Zoom, link and further information will be available online at:
<https://www.mass.gov/assisted-living-residences-alr-commission>

Why: Gather community perspectives surrounding ALRs, identify challenges and opportunities in ALRs, inform final legislative recommendations

What:

- **What Works Well and What Can Improve:** *What is good about the ALR model, and what could be made better?*
- **Helping Residents as Their Needs Change:** *When residents' needs change, what ideas do you have so that residents, their families, and ALR staff can plan for the future, know what to expect, and share clear, honest information about the support given?*
- **Keeping Residents Safe While Letting Them Decide:** *What safety rules at ALRs are most important? What extra checks or changes might make living there better, while still letting residents make their own choices?*

Who:

- Residents & Families
- Advocates
- Providers & Industry Representatives
- All Other Stakeholders

Upcoming Public Hearing | *What You Need to Do*

Spread the word! Share the following information.

Hello,

You're invited to the ALR Commission's **Virtual Public Hearing** on **Thursday, May 15, 2025, from 1:00–3:00 PM** via Zoom. We want to listen! Please join the Hearing and share your thoughts about Assisted Living Residences in Massachusetts. We want to know:

- **What Works Well and What Can Improve:** What is good about the ALR model, and what could be made better?
- **Helping Residents as Their Needs Change:** When residents' needs change, what ideas do you have so that residents, their families, and ALR staff can plan for the future, know what to expect, and share clear, honest information about the support given?
- **Keeping Residents Safe While Letting Them Decide:** What safety rules at ALRs are most important? What extra checks or changes might make living there better, while still letting residents make their own choices?

Join us and share your insights: Register here ► <https://www.mass.gov/assisted-living-residences-alr-commission>

Please forward to colleagues, residents, and family members—everyone's perspective counts!

Questions about the hearing? Contact the Executive Office of Aging & Independence (AGE) by emailing: francis.p.sullivan2@mass.gov and william.travascio@mass.gov.

Thank you,
The ALR Commission Team

Guiding Discussion Questions



Questions to Consider & Discuss

1. How can we improve transparency and access to key ALR information for residents and families?
2. What regulatory or operational changes would strengthen consumer protections around finances, contracts, and resident rights?
3. How can Massachusetts ensure ALRs adapt safely to residents' changing care needs—especially complex ones—while preserving autonomy and within a residential model?

Massachusetts Consumer Protections for ALR Residents & Families

Whitney Moyer, Executive Office of Aging & Independence



Consumer Protections for ALR Residents | *Current*



Certification & Oversight: AGE certifies ALRs, conducts biennial visits and enforces compliance



Resident Rights: Rights under Chapter 19D including refusal of services, participation in service plans, privacy protections, and landlord-tenant protections apply



Landlord-Tenant Law: ALRs subject to landlord-tenant law including security deposit rules (SJC ruling 2019)



Financial Protections: Prohibition on ALR control of resident funds; transparency on fees; Medicaid estate recovery limited to federal minimum

Consumer Service Quality & Safety Protections | *Current*

- Individualized service plans with resident involvement
- To prevent inappropriate placements:
 - ALRs must ensure residents receive proper assessments before and during their stay
 - ALRs cannot admit residents requiring 24-hour skilled nursing supervision unless the resident elects to receive Basic Health Services from residences that are certified to provide such services or from qualified third parties
 - Skilled nursing beyond Basic Health Services care can only be provided under specific conditions, such as through certified home health agencies
- 24/7 on-site staff and emergency response systems required
- Mandatory reporting of incidents affecting residents within 24 hours to AGE
- Elder abuse protections and mandatory reporting laws apply

Consumer Protections for ALR Residents | *Forthcoming Enhancements (1 of 2)*

Chapter 197 of the Acts of 2024, introduced significant reforms within ALRs to enhance transparency, expand service offerings, and strengthen enforcement.

Key Enhancements:

- **ALRs may become certified to directly provide Basic Health Services, which include:**
 - Injections,
 - Simple dressing changes,
 - Oxygen management,
 - Specimen collection with home diagnostic tests, and
 - Applying ointments or drops.
- **Enhanced Certification and Operating Plan Updates:**
 - Residences seeking basic health services certification must undergo an annual compliance review by AGE.
- **Increased Transparency Requirements:**
 - Disclose all officers, directors, trustees, and shareholders or partners with a 5% or greater interest (previously 25%)
- **Oversight and Enforcement:**
 - A dedicated Assisted Living Residences Commission to study the sector and recommend policy improvements.
 - AGE may impose fines of up to \$500 per day for sponsors or applicants who fail to comply with assisted living requirements.
 - Includes whistleblower protections prohibiting residences from retaliating against employees or residents who, in good faith, report violations of law, rules, or regulations or raise concerns about public health, safety, or well-being.

Consumer Protections for ALR Residents | *Forthcoming Enhancements (2 of 2)*

Chapter 93A, Massachusetts' Attorney General's Office (AGO) is drafting consumer protection regulations for ALRs under the consumer protection statute (Chapter 93A)

Key Enhancements:

- **Prohibit unfair and deceptive business practices**
- **Authorize the Attorney General to promulgate regulations requiring disclosures about contractual terms**
- **Allow for declaration of certain acts and practices as unlawful**

TRANSPARENCY and CONSUMER PROTECTIONS: THE CONSUMER PERSPECTIVE

Assisted Living Residences Commission
April 17, 2025

Rose-Marie Cervone, BSN, MPA, RN

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**Certified as an Elder Law Attorney by the National Elder Law Foundation, the only national organization accredited by the American Bar Association to certify attorneys in elder law. Massachusetts does not recognize legal specialties for certification.*

Introduction and Perspective

Family Experiences of an ALR

“I like my Mother’s assisted living residence. My Mother continues to live there. I do not hold them responsible for anything I am about to say.”

Family Experiences of an ALR

An elderly woman confined to a wheelchair needs assistance to lift up. The aide told her: "This is assisted living. You need to assist yourself."

Rose-Marie's Experience

- Failure to isolate contagious residents
- Insufficient monitoring of ill residents
- Increased isolation with decreased mobility

Kathleen's Experience

- Depleted financial resources ("outliving resources")
- Insufficient staffing
- Inadequate training

Recent ALR Experiences

Response time by Aides: Residents press a pendant to notify for assistance. A responding aide shuts off the pendant alarm. The pendant keeps track of how quickly staff responds to a resident's request.

"Mom is confined to a wheelchair. She pushed the pendant and waited. And waited. An aide finally arrived, shut off the pendant, and then left to care for another resident, eventually arriving back to Mom."

The family is putting up cameras in Mom's room.

Recent ALR Experiences

Finances: Family feeling “nickeled and dimed” but at the mercy of care providers and ALR.

Financial Move-in date v. Physical Move-in Date

Charged from the date the paperwork (Residency Agreement) is signed: \$398/day for rent, meals, medication assistance and services but resident hadn't moved in yet!

Recent ALR Family Experiences

Husband with Parkinsons. ALR assured Wife that despite Husband being a fall risk, they could provide the care he needed. Upon admission, husband ate in the dining room and enjoyed playing Rumikub with Wife.

Within a three days, Husband fell while trying to get out of bed during the night. He was not injured. Four nights later, Husband fell again under the same circumstances. Staff later found him on the floor. Husband died.

Transparency of Information

- Costs and Billing practices
- Selection of a particular ALR
- What should be available to the public

Costs and Billing: Recent Legal Case Examples

"MacMaster and several other low-income disabled residents at Prospect House have joined a class action lawsuit recently filed in U.S. District Court in Massachusetts, alleging that the fees that they are being charged are a violation of state and federal housing laws. They want answers. 'There's so many people there that [have] no idea what they're paying for,' MacMaster said."

<https://www.wgbh.org/news/local/2024-10-31/residents-sue-assisted-living-facility-over-fees-that-drain-their-income>

Choosing an ALR: Information available vs. What should be available

- AGE website: difficult to compare one facility to another; inspection and incident reports not available;
- Submit a Public Records Request from AGE;
- MASS ALA resource book and website; and
- Rely upon representations of ALR marketing individual.

Residency Agreements

- A binding contract whose terms may not be readily understood;
- A legal document though generally, not reviewed by an attorney;
- Oftentimes, families face an urgent situation (ie hospital discharge) that requires a quick decision

Required Disclosures

- Detailed Uniform Disclosure Form (see Minn. Uniform Disclosure Required Document), submitted to AGE and to each applicant(s)
 - Payment for services prior to occupancy or extended absence or death
 - Notice that resident may be evicted if unable to pay
 - Five-year history of rate increases

Required Residency Agreement Provisions

- Detailed Disclosure of Community Fee (Ryan Case);
- Current cost of additional fees (ie Continence Fee, Medication Management, Laundry);
- Third Party Guarantee of payment must be knowing and voluntary
- Waiver of Liability, Pre-dispute Agreement to Arbitrate and Waiver of Constitutional Rights (Jury Trial) must be knowing and voluntary

Recommendations to Protect Consumers

- AG's Office: drafting 93A regulations
- Information to be made readily available to consumers
 - AGE to provide information on website about ownership
 - Inspection results
 - Incident reports
- AGE should require Family Councils and Resident Councils (see Minn.)

Catherine Hawe: Assisted Living is a “Ticking Time Bomb”

PBS FRONTLINE edited transcript of an interview conducted on Nov. 10, 2012

Catherine Hawes is the Director of the Program on Aging and Long-Term Care Policy at Texas A&M University

To Conclude

“We’re creating an industry with 1 million people in it who are becoming more frail.... They have fewer inspectors. They have fewer complaint investigators by a lot than we do in nursing homes. And we don’t have consumer advocates for assisted living in most states.

That’s why I talk about it as a ticking time bomb, because we’re going to see more deaths, more injuries.”

Questions & Discussion

Questions to Consider & Discuss

1. **How can we improve transparency and access to key ALR information for residents and families? Consider:**
 - Which data (inspection reports, incident logs, ownership details, pricing/billing practices, etc.) should be published?
 - In what formats (online portal, one-page summaries, searchable database)?
 - What steps—drawing on other states' best practices—would make this information more discoverable and easy to understand?
2. **What regulatory or operational changes would strengthen consumer protections around finances, contracts, and resident rights? Consider:**
 - Should we require standardized disclosures (e.g. fee schedules, refund policies) in residency agreements?
 - What contract provisions (e.g. caps on unexpected fees, arbitration opt-outs) or enforcement tools (e.g. fines, expedited complaint resolution) are most effective?
 - How can we guard against unclear billing and ensure residents have meaningful legal review before signing?
3. **How can Massachusetts ensure ALRs adapt safely to residents' changing care needs—especially complex ones—while preserving autonomy? Consider:**
 - What minimum staffing, training, response-time, or care-coordination standards should apply?
 - Which oversight improvements or support systems (e.g. service plan audits, periodic competency checks) are needed?
 - How should performance be monitored and enforced to ensure timely, appropriate care?

Roadmap

May 7th Meeting Proposed Topics & Presenters

Secretary Robin Lipson



Roadmap | *Where We Are Going*

Date	Topic	Key Focus	Proposed Speakers/Stakeholders	Exact Statute Language
2/26/2025	Intro & ALRs Oversight	Overview of ALRs, ethics/compliance, legislative mandates	Secretary of Elder Affairs (Chair), AGE Director of ALRs	(i) the current statutory and regulatory oversight of assisted living residences;
3/5/2025	Key Trends	Trends in ALR certification, ownership changes, incident/complaint reporting	AGE Director of ALRs, LTC Ombudsman Director	(iii) the impacts of licensing or certifying such residences; (vi) trends in incident reports and resolutions
4/2/2025	State Comparisons, Best Practices & Advertising	Review of leading states' policies, licensing impacts, advertising practices	Mass-ALA, LeadingAge, Alzheimer's Association, AARP	(ii) assisted living best practices in other states; (iv) advertising practices of assisted living residences
4/17/2025	Transparency & Consumer Protections	Methods for transparency, consumer protections, resident safety	Greater Boston Legal Services, National Academy of Elder Law Attorneys, AGO Representative	(ix) existing consumer protections for residents; (vii) methods to provide transparency of information for potential consumers and families
5/7/2025	Safety Standards & Health Services	Safety standards and integration of basic health services	NE Chapter of Gerontological AP Nurses, DPH, AGE	(viii) safety standards; (x) basic health services in residences
5/15/2025	Public Hearing	Engage residents, families, advocacy groups, and industry stakeholders	Residents, family members, advocacy groups, industry representatives	Public Hearing (gathering public input, as required by SECTION 32(b))
6/4/2025	ALR Affordability & Regulatory Procedures	Key considerations related to opening/closing/ ownership, and need determinations	MassPACE, MassHealth, AGE	(v) regulatory procedures for opening, closing or changing ownership, including determination of need processes and clustering of facilities
7/15/2025	Final Recommendations & Report Drafting	Consolidate findings and finalize recommendations	AGE Chair, Staff, Policy & Legal Team	All topics (i)-(x) as outlined in SECTION 32(a) for final recommendations and report drafting
8/1/2025	Submit Legislative Report			

A decorative pattern of stylized leaves in various colors (yellow, green, teal, blue, white, and grey) is arranged vertically along the left edge of the slide. The leaves are of different shapes and sizes, some pointing upwards and others downwards, creating a sense of movement and growth.

THANK YOU!