



The Commonwealth of Massachusetts  
Executive Office of Health and Human Services  
Office of the Long-Term Care Ombudsman  
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**Carolyn Fenn**  
Director

May 28, 2025

Francis P. Sullivan, Esq.  
AGE Legal Counsel  
One Ashburton Place  
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Dear Attorney Sullivan:

As you consider regulations pertaining to the operation of Assisted Living Residences, we appreciate the opportunity to submit the following recommendations. We realize that some of the items are more appropriately addressed by the Elder Justice Committee, and we have communicated with them accordingly.

1. We support transparency of survey results and complaint visits (i.e. posting in residence lobby and/or on-line at AGE website).
2. The LTCOP has concern about undue sales pressures and deceptive marketing techniques as evidenced by complaints about services and amenities and assurances of care that are not realized. We have become aware of the practice of sales staff in some ALR's receiving bonuses or commissions for admissions, and this creates an incentive to embellish the attractiveness of a residence, even if it is not in writing. Some residences include other staff at the sales meeting, i.e. MCU Director or RCD, to ensure that correct information is provided over and above the written materials and this is good practice. It may also be appropriate to consider the qualifications or training of sales staff in this environment. There needs to be accountability for what is advertised on the website and in marketing materials versus actual practice.
3. We recommend that any language in current regulation that uses the term "resident or legal representative or resident representative" (see Service Plan Development 651 CMR 12.04 (7)) be modified to read "resident or legal representative **and** resident representative (if applicable)", to codify resident involvement in consents, admissions, service plan development, etc. UNLESS there is a legal representative with authorization to make decisions and agreements on behalf of a resident. In other words, the "resident representative" cannot be a substitute for the resident in these matters, but it reads like that could happen, and we have seen this in practice. The LTCOP has intervened in more than one case of a resident being admitted without their consent to a MCU or traditional ALR apartment by family member signature accepted by the ALR.

4. We recommend development of a system-wide “dashboard” with criteria developed by a joint working group of industry professionals and stakeholders to assist consumers in making informed decisions about which ALR is right for them. This could either be hosted by AGE or a requirement for each ALR website once the criteria are determined.
5. We recommend a licensure process for Executive Directors. We commend Mass ALA for their training programs and suggest a work group with stakeholders to develop general requirements for licensure. The responsibilities of this position are many and growing, especially as services expand and residents have more complex needs. The LTCOP has seen many well-meaning individuals flounder as Executive Directors and we have also seen the sense of stability, customer satisfaction, and staff retention that derives from experienced and well-educated leaders. Simply being 21 years old, with unspecified general experience and “good moral character” (not readily measurable!) is not sufficient to assume responsibility for an assisted living residence. The National Association of LTC Administration Boards (NAB) provides resources in this area which could be supplemented by state-specific education.
6. Staffing requirements: we would like to see a more rigorous process for determining “sufficient staffing at all times” (651 CMR 12.06(4)). The Ombudsmen team has observed residences requiring residents/families to pay for additional private-duty staff while the residence under-staffs to the needs of their population.
7. The LTCOP receives numerous complaints about medication management in the SAMM program and recommends a more robust training requirement with ongoing competency checks for staff involved in SAMM.
8. Discharge/Eviction/Transfers: The LTCOP should receive copies of all “notices to quit” or eviction notices at the same time they are provided to the resident (practice similar to what is required in nursing facilities). This will give the Ombudsman program the opportunity to ensure that residents are aware of their rights in this matter and the ability to intervene if the resident requests advocacy. Eviction is disruptive to all parties, and the LTCOP has successfully negotiated many agreements between the ALR and the resident to prevent evictions.
9. The LTCOP supports the notion of standardized assessments across the industry. We have received complaints about residents who either transferred to another residence or whose residence was purchased by another provider, only to find a new assessment resulting in higher fees or narrower definitions. There are also times when an ALR changes its assessment methodology, with resulting rate increases when the resident’s status has not changed. This is confusing and upsetting to consumers.
10. Change of ownership (651 CMR 12.03(8): Residents should have the same access to information in this section as provided in section 12.03 (10) (a) Resident Notice as indicated to “...close or sell the Residence”.
11. Resident/Family Council: we support the addition of guidance to residences regarding the formation and operation of resident and family councils, similar to CMS Appendix PP information discussed at F565 (and provided to AGE legal counsel for review).

Respectfully Submitted,



Carolyn Fenn  
State Long-Term Care Ombudsman