The Times, They Are a Changin': A Review of the AL/PC Bill

Music and lyrics by Bob Dylan

Performed by Bob Dylan
https://youtu.be/Q9_nWlSX6Us

Presenter: Mark D. Lee
President, Paragon Development Consultants, LLC

Purpose:

- Modernizes Kentucky's assisted living social model to align more closely with the vast majority of states

- Allows AL communities to deliver basic health services in an environment that encourages meaningful aging in place

Process:

- KSLA obtained a grant from Argentum to fund part of the expenses of retaining a consultant to guide the process of making significant changes to the AL and PC statutory and regulatory framework

- Beginning in 2019, KSLA ED Bob White and consultant Mark Lee had meetings with CHFS Inspector General Steve Davis, and in 2020 with CHFS Secretary Eric Friedlander and Inspector General Adam Mather, as well their key staff members

•**Organized Coalition Partners (CPs)** as a task force to develop consensus and a united industry front; led by Paragon Development Consultants, CPs are comprised of:

1) **KY Senior Living Association (KSLA)**
   a) Four members of Board of Directors
   b) Executive Director
   c) Executive Assistant
   d) Government Relations Contract Professional Kelley Abell, Rotunda Group

2) **KY Assn. of Health Care Facilities (KAHCF) / KY Center for Assisted Living (KCAL)**

3) **LeadingAge Kentucky**

During 2019 and 2020, Consultant:

- Discussed issues regarding regulatory approaches in other states with various individuals, including
  1) Senior Compliance/Public Policy Analyst, Life Care Services, Des Moines, IA
  2) Hodes & Landy / Argentum New York, Albany, NY
  3) Regional Director Healthcare Services, Five Star Senior Living – Florida region C3
  4) Director of Clinical Quality, Senior Housing Management, Cedar Rapids, IA

- Reviewed AL statutes and regulations of numerous states, including Alaska, Arizona, Florida, Georgia, Illinois, Iowa, Minnesota, New York, North Carolina, Oregon, and Wisconsin

- Reviewed KY General Assembly's Alzheimer's and Dementia Workforce Assessment Task Force report to be certain that Coalition Partners' consensus framework would align with the recommendations and address the stated concerns, especially with regard to memory care units

• Two meetings were held (October, 2020 and July, 2021) with Alzheimer's Association key staff re memory care issues

- Meeting participants included:

1) Greater Kentucky and Southern Indiana Chapter (Louisville)
   a) Shannon White, Executive Director
   b) Mackenzie Longoria, Public Policy Director

2) Illinois Chapter (Chicago)
   a) Jennifer Belkov, Vice President, Public Policy & Advocacy

3) Washington, D.C.
   a) Jennifer Rosen, Director of State Affairs for the Alzheimer's Association and the Alzheimer's Impact Movement (AIM)
   b) Andrew Ross, Associate Director of State Affairs
   c) Douglas Pace, Director of Mission Partnerships
   d) Carter Harrison, Director of Public Policy, Glen Allen, Virginia

- A Zoom meeting for all KSLA members was held on September 29, 2020 to communicate about the legislative initiative and seek input; more than 60 members participated.

- Coalition Partners met numerous times during 2020 and 2021 to reach consensus on general principles of the bill. Later, CPs reviewed in detail various versions of the draft bill that had been prepared by Consultant and reached agreement regarding specific statutory language.

Key components of bill:

•**Merges Personal Care (PC) (basic health services model) with AL (currently, social model)** into one broader licensure category called "Assisted Living Community" (ALCs). Apartment-style PC homes (PCHs) that meet AL building standards will be relicensed as ALCs.

•**Reduces consumer confusion by merging private-pay apartment-style PCHs with private-pay apartment-style ALCs.** Consumers do not understand why senior communities with similar appearances that care for older persons with low acuity needs are currently licensed differently. Currently, PCHs deliver basic health services, while ALCs are prohibited from providing health services. The bill removes this consumer confusion.

• **Expanded definition of AL includes care from just beyond independent living until the point that skilled nursing is required, without regard to physical location of the resident's apartment unless a secured dementia unit becomes necessary.** Care will adjust to the resident's needs, rather than care being defined by the location of the apartment. Individualized service plans will identify the care to be provided. Orders from a health care practitioner will be required for delivery of basic health services.

• **Providers choose how much care to offer** within the broader definition of AL. Should a provider choose to only serve low-acuity, social-model residents, staffing will be different in quantity and qualification than if the provider delivers basic health services. Providers will staff, train and implement policies and procedures appropriate to the care being provided. The Nurse Practice Act will control when credentialed staff will be required.

- **An ALC with a memory care unit will be licensed as an "Assisted Living Community with Dementia Care":**

  - Delivery of basic health services within a memory care unit will be required, thereby increasing quality of care

  - The bill increases required staff training related to dementia.

  - These improvements:

    - better meet the needs of this vulnerable population

    - address concerns about social model memory care units expressed by CHFS and the Alzheimer's Association

    - align with recommendations of General Assembly's Alzheimer's and Dementia Workforce Assessment Task Force. The current prohibition on delivery of health services was listed as a significant problem in the 2019 Task Force report.

- **A resident needing hospice may remain in their AL home.** This will be a new and much needed provision for those currently living in apartment-style PCHs.

- **This bill updates AL, not its payor source.** AL will remain a private-pay, consumer-driven, non-institutional model.

NEW/CHANGED DEFINITIONS

(1)"Activities of daily living" means normal daily activities, including ***but not limited to*** bathing, dressing, grooming, transferring, toileting, and eating;

(2) "Ambulatory" means able to walk, transfer, or move from place to place with or without hands-on assistance of another person, and with or without an assistive device, including but not limited to a walker or a wheelchair;

"Assisted living community" means a licensed facility that provides sleeping accommodations and ***assisted living services*** set forth in the assisted living community's lease and policies for five (5) or more adult persons not related within the third degree of consanguinity to the owner or manager;

(6) "Assisted living community with dementia care" means an assisted living community that is advertised, marketed, or otherwise promoted as providing specialized care for individuals with Alzheimer's disease or other dementia illnesses and disorders. An assisted living community with a secured dementia care unit shall be licensed as an assisted living community with dementia care;

(7) "Assisted living services" means ***one (1) or more of the following services:***

(a) Assisting with activities of daily living, including ***but not limited to*** *bathing, dressing, grooming, transferring, toileting, and eating;*

(b) Assisting with instrumental activities of daily living that support independent living, including ***but not limited to*** *housekeeping, shopping, laundry, chores, transportation, and clerical assistance;*

(c) ***Providing standby assistance;***

(d) Providing ***verbal or visual reminders*** *to the resident to take regularly scheduled medication, including bringing the resident previously set up medication, medication in original containers, or liquid or food to accompany the medication;*

(e) Providing ***verbal or visual reminders*** *to the resident to perform regularly scheduled treatments and exercises;*

(f) Preparing and serving three (3) meals per day consisting of regular or modified diets ***ordered by a licensed health professional;***

(g) ***Providing the services of an advanced practice registered nurse, registered nurse, licensed practical nurse, physical therapist, respiratory therapist, occupational therapist, speech pathologist, dietitian or nutritionist, or social worker;***

"Assisted living services" continued:

(h) ***Tasks delegated to unlicensed personnel by a registered nurse or assigned by a licensed health professional within the person's scope of practice;***

(i) Assistance with self-administration of medication;

(j) ***Medication management;***

(k) ***Hands-on assistance with transfers and mobility, including use of gait belts;***

(l) ***Treatments and therapies;***

(m) ***Assisting residents with eating when the residents have complicated eating problems such as difficulty swallowing or recurrent lung aspirations as identified in the resident record or through an assessment;***

(n) Scheduled daily social activities that address the general preferences of residents; and

(o) ***Other basic health and health-related services;***

(17) "Medication administration" means:

(a) Checking the resident's medication record;

(b) Preparing the medication as necessary;

(c) Administering the medication to the resident;

(d) Documenting the administration or reason for not administering the medication; and

(e) Reporting to a nurse or appropriate licensed health professional any concerns about the medication, the resident, or the resident's refusal to take the medication;

(18) "Medication management" means the provision of any of the following medication-related services to a resident:

(a) Performing medication setup;

(b) Administering medications;

(c) Storing and securing medications;

(d) Documenting medication activities;

(e) Verifying and monitoring the effectiveness of systems to ensure safe handling and administration;

(f) Coordinating refills;

(g) Handling and implementing changes to prescriptions;

(h) Communicating with the pharmacy about the resident's medications; and

(i) Coordinating and communicating with the prescriber;

(19) "Medication setup" means arranging medications by a nurse, pharmacy, or authorized prescriber for later administration by the resident or by facility staff;

(20) "Nonambulatory" means unable to walk, transfer, or move from place to place with or without hands-on assistance of another person, and with or without an assistive device, including but not limited to a walker or a wheelchair;

(21) "Person-centered care" means respecting and valuing the individual, providing individualized care that reflects the individual's changing needs, understanding the perspective of the person, and providing supportive opportunities for social engagement;

(24) "Secured dementia care unit" means a designated area or setting designed for individuals with dementia that is secured in compliance with the applicable life safety code to prevent or to limit a resident's ability to exit the secured area or setting. A secured dementia care unit is not solely an individual resident's living area;

(25) "Service plan" means the written plan agreement between the resident and the licensee about services that will be provided to the resident;

(26) "Standby assistance" means minimizing the risk of injury to a resident who is performing daily activities by a person who is within arm's reach providing physical intervention, cueing, or oversight;

(27) "Temporary condition" means a condition that affects a resident as follows:

(a) The resident ***is not ambulatory*** *before or after entering a lease agreement with the assisted living community but is expected to regain ambulatory ability within six (6) months of loss of ambulation, is documented by a licensed health care professional, and the assisted living community has a* ***written plan in place to mitigate risk****; or* ***[Now says "not a danger"]***

(b) The resident is ***not ambulatory*** *after entering a lease agreement with the assisted living community but is not expected to regain ambulatory ability, hospice or similar end-of-life services are provided in accordance with Section 3 of this Act documented by hospice or a licensed health care professional, and the assisted living community has a* ***written plan in place to mitigate risk;***

Music and lyrics by Bob Dylan

Performed by Brandi Carlile

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Each living unit in an assisted living community shall:

(a) Be at least two hundred (200) square feet for single occupancy, or for double occupancy if the room is shared with a spouse or another individual by mutual agreement;

(b) Include at least one (1) unfurnished room, a lockable ***entry*** door, ***unless in a dementia care unit,*** private bathroom with a tub or shower, provisions for emergency response, window to the outdoors, and a telephone jack;

(c) ***Unless living units are in a dementia care unit,*** have an individual thermostat control if the assisted living community has more than twenty (20) units; and

(d) Have temperatures that are not under a resident's direct control at a minimum of seventy-one (71) degrees Fahrenheit in winter conditions and a maximum of eighty-one (81) degrees Fahrenheit in summer conditions if the assisted living community has twenty (20) or fewer units, ***or the living units are in a dementia care unit.***

(1) The assisted living community **shall provide** each resident with access to the following services according to the lease agreement:

(a) Assistance with activities of daily living and instrumental activities of daily living;

(b) Three (3) meals and snacks made available each day;

(c) Scheduled daily social activities that address the general preferences of residents;

(d) Assistance with self-administration of medication; and

(e) ***Housing*****.**

(2) *(a) The assisted living community* ***may provide*** *residents with access to* ***basic health and health-related services*****.**

(b) If an assisted living community chooses to provide basic health and health-related services, the assisted living community shall supervise the residents.

(3) (a) Residents of an assisted living community may arrange for additional services under direct contract or arrangement with an outside agent, professional, provider, or other individual designated by the resident if permitted by the policies of the assisted living community.

(b) Permitted services for which a resident may arrange or contract include, but are not limited to health services, ***hospice, and other end-of-life services.*** ***[New for PC]***

(6) An assisted living community shall complete and provide to the resident:

(a) Upon move-in, a copy of a functional needs assessment pertaining to the resident‘s ability to perform activities of daily living and instrumental activities of daily living ***and any other topics the assisted living community determines to be necessary;*** and

(b) After move-in, a copy of an updated functional needs assessment pertaining to the resident‘s ability to perform activities of daily living and instrumental activities of daily living, ***the service plan designed to meet identified needs***, *and any other topics the assisted living community determines to be necessary*.

(1) The Cabinet for Health and Family Services shall establish by the promulgation of administrative regulation under KRS Chapter 13A, an initial and ***biennial licensure*** review process for assisted living communities. This administrative regulation shall establish procedures related to applying for, reviewing, and approving, denying, or revoking licensure, as well as the conduct of hearings upon appeals as governed by KRS Chapter 13B.

(2) Notwithstanding the timeframe in Section 28 of this Act, an on-site visit of an assisted living community shall be conducted by the cabinet:

(a) As part of the initial licensure review process; and

(b) ***Twenty-four (24) months or more following the date of the previous licensure review.*** ***[Does away with statements of danger and establishes biennial reviews across the board; new for apartment-style PCs]***

(8) Individuals designated by the cabinet to conduct licensure reviews shall have the skills, training, experience, and ongoing education, ***including understanding that assisted living is not subject to the rules and regulations of the Centers for Medicare and Medicaid Services,*** to perform ***assisted living community and assisted living community with dementia care licensure*** reviews.

(11) Notwithstanding any provision of law to the contrary, the cabinet may request ~~[any]~~additional ***relevant*** information from an assisted living community or conduct additional on-site visits to ensure compliance with the provisions of KRS 194A.700 to 194A.729 ***if the cabinet has reasonable cause to believe that the assisted living community is not in compliance*.**

CURRENT:

A resident shall meet the following criteria:

(1) be ambulatory or mobile nonambulatory, unless due to a temporary condition; and

(2) Not be a danger.

BILL:

A resident shall be ambulatory, unless due to a temporary condition.

(1) Staffing in an assisted living community shall be sufficient in number and qualification to meet the twenty-four (24) hour scheduled needs of each resident pursuant to the lease agreement, functional needs assessment, ***and service plan***.

(2) One (1) awake staff member shall be on site at ***each licensed entity at*** all times.

(1) An applicant for licensure as an assisted living community with dementia care shall have the ability to provide services in a manner that is consistent with the requirements in this section. The cabinet shall consider the following criteria for licensure, including but not limited to:

(a) The education and experience of the applicant or its principals in managing residents with dementia or other dementia illnesses and disorders; and

(b) The compliance history of the applicant in the operation of any care facility licensed, certified, or registered under federal or state law.

(2) If the applicant or its principals do not have experience in managing residents with dementia, the applicant shall employ or contract with a consultant pursuant to terms determined by the applicant and consultant for at least the first six (6) months of operation. The consultant shall make recommendations on providing dementia care services consistent with the requirements of this chapter. The consultant shall:

(a) Possess two (2) years of work experience related to dementia, health care, gerontology, or an associated field; and

(b) Have completed at least the core training required Section 21 of this Act.

(3) The applicant shall document an acceptable plan to address the consultant's identified concerns and shall either implement the recommendations or document in the plan any consultant recommendations that the applicant chooses not to implement. The cabinet shall review the applicant's plan upon request.

(4) Subsections (1), (2), and (3) of this section apply only to the initial licensure of assisted living communities with dementia care and do not apply to existing dementia units in operation as of the effective date of this Act.

(5) The cabinet shall conduct an on-site inspection prior to the issuance of an assisted living community with dementia care license to ensure compliance with the physical environment requirements.

(6) The license shall be inscribed as an "Assisted Living Community with Dementia Care."

(1) The assisted living manager of an assisted living community with dementia care shall complete at least ten (10) hours of annual continuing education that relate to the care of individuals with dementia.

(2) Annual continuing education topics shall include:

(a) Medical management of dementia;

(b) Creating and maintaining supportive and therapeutic environments for residents with dementia; and

(c) Transitioning and coordinating services for residents with dementia.

(3) The continuing education requirements may be fulfilled by the following:

(a) College courses;

(b) Preceptor credits;

(c) Self-directed activities;

(d) Course instructor credits;

(e) Corporate training;

(f) In-service training;

(g) Professional association training;

(h) Web-based training;

(i) Correspondence courses;

(j) Telecourses;

(k) Seminars; and

(l) Workshops.

(1) In addition to the policies and procedures required in the licensing of all assisted living communities, an assisted living community with dementia care licensee shall develop and implement policies and procedures that address the following:

(a) Philosophy of how services are provided and implemented based upon the assisted living community licensee's values, mission, and promotion of person-centered care;

(b) Evaluation of behavioral symptoms and design of supports for intervention plans, including but not limited to nonpharmacological practices that are person-centered and evidence-informed;

(c) Egress prevention;

(d) Medication management pursuant to orders from a resident's health care practitioner;

(e) Staff training specific to dementia care;

(f) Description of life enrichment and activity programs;

(g) Description of family support and engagement programs;

(h) Incontinence care;

(i) Limit the use of public address and intercom systems to emergencies;

(j) Transportation to and from off-site medical appointments; and

(k) Safekeeping of residents' possessions.

(2) The policies and procedures shall be provided to residents and their legal and designated representatives at the time of move-in.

(1) An assisted living community with dementia care shall assign dementia-trained staff who have been instructed in the person-centered care approach for all residents. All direct care staff assigned to care for residents with dementia shall be trained to work with residents with Alzheimer's disease and other related dementia illnesses and disorders.

(2) Only staff trained as required by Section 21 of this Act shall be assigned to care for dementia residents.

(3) Staffing levels shall be sufficient to meet the scheduled needs of residents. During nighttime hours, staffing levels shall be based on the sleep patterns and needs of residents.

(4) In an emergency and when trained staff are not available, the assisted living community may assign staff who have not completed the required training. The emergency situation shall be documented and shall address:

(a) The nature of the emergency;

(b) The duration of the emergency; and

(c) The names and positions of staff who provided coverage and assistance.

(5) The licensee shall ensure that staff who provide support for residents with dementia demonstrate a basic understanding and ability to apply dementia training to the residents' emotional and unique health care needs using person-centered planning delivery.

(6) Persons in charge of staff training shall have the following experience and credentials:

(a) Two (2) years of combined education and work experience related to Alzheimer's disease or other dementia illnesses and disorders, or in health care, gerontology, or another related field;

(b) Completion of training equivalent to the requirements in Section 21 of this Act; and

(c) A passing score on a skills competency or knowledge test the licensee selected or developed.

(7) Subsection (6)(a) of this section is not applicable to assisted living communities with dementia care that have fewer than a total of twenty (20) living units.

(8) Orientation and in-service training may include various methods of instruction, including but not limited to classroom style, Web-based training, video, or one-to-one training. The licensee shall use a method for determining and documenting each staff person's knowledge and understanding of the training provided. All training shall be documented.

(1) In addition to the minimum services required in Section 3 of this Act, an assisted living community with dementia care shall also provide:

(a) Assistance with activities of daily living that address the needs of each resident with dementia;

(b) Nonpharmacological practices that are person-centered and evidence-informed;

(c) Informational services educating persons living with dementia and their legal and designated representatives about transitions in care and expectations of residents while in care;

(d) Social activities offered on or off the premises of the licensed assisted living community with dementia care that provide residents with opportunities to engage with other residents and the broader community; and

(e) Basic health and health-related services.

(2) Each resident shall be evaluated for engagement in activities. The evaluation shall address:

(a) Past and current interests;

(b) Current abilities and skills;

(c) Emotional and social needs and patterns;

(d) Physical abilities and limitations;

(e) Adaptations necessary for residents to participate; and

(f) Identification of activities for behavioral interventions.

(3) An individualized activity plan shall be developed for each resident based on his or her activity evaluation. The plan shall reflect the resident's activity preferences and needs.

(4) A selection of daily structured and non-structured activities shall be provided and included on the resident's activity service or care plan as appropriate. Daily activity options based on the resident evaluation may include but are not limited to:

(a) Occupation or chore related tasks;

(b) Scheduled and planned events;

(c) Spontaneous activities for enjoyment or to help defuse a behavior;

(d) One-to-one activities that promote personal interactions between residents and staff;

(e) Spiritual, creative, and intellectual activities;

(f) Sensory stimulation activities;

(g) Physical activities; and

(h) Outdoor activities.

(5) Behavioral symptoms that negatively impact the resident and others in the assisted living community with dementia care shall be evaluated and included on the service plan. The staff shall initiate and coordinate outside consultation or acute care when indicated.

(6) Support services shall be offered to family and others with significant relationships on a regularly scheduled basis but not less than every six (6) months.

(7) Subject to appropriate weather, time of day, and other environmental or resident-specific considerations as determined by staff, access to secured outdoor space and walkways allowing residents to enter the secured outdoor space and return to the building without staff assistance shall be provided. This subsection shall only apply to dementia units constructed after the effective date of this Act.

In addition to the training required for all assisted living communities, an assisted living community with dementia care shall meet the following training requirements for staff who work on its dementia care unit:

(1) All staff shall receive at least eight (8) hours of dementia-specific orientation within the first thirty (30) days of working in the dementia care unit. The orientation shall include:

(a) Information about the nature, progression, and management of Alzheimer's and other dementia illnesses and disorders;

(b) Methods for creating an environment that minimizes challenging behavior from residents with Alzheimer's and other dementia illnesses and disorders;

(c) Methods for identifying and minimizing safety risks to residents with Alzheimer's and other dementia illnesses and disorders; and

(d) Methods for communicating with individuals with Alzheimer's and other dementia illnesses and disorders;

(2) All direct care staff members shall also receive orientation training within the first thirty (30) days of caring for residents that includes at a minimum:

(a) General training, including:

1. Development and implementation of comprehensive and individual service plans;

2. Skills for recognizing physical and cognitive changes in residents;

3. General infection control principles; and

4. Emergency preparedness training; and

(b) Specialized training in dementia care, including:

1. The nature of Alzheimer's and other dementia illnesses and disorders;

2. The unit's philosophy related to the care of residents with Alzheimer's and other dementia illnesses and disorders;

3. The unit's policies and procedures related to the care of residents with Alzheimer's and other dementia illnesses and disorders;

4. Behavioral problems commonly found in residents with Alzheimer's and other dementia illnesses and disorders;

5. Positive therapeutic interventions and activities;

6. Skills for maintaining the safety of the residents; and

7. The role of family in caring for residents with Alzheimer's and other dementia illnesses and disorders;

(3) Direct care staff shall complete a minimum of sixteen (16) hours of specialized training in dementia care within the first thirty (30) days of working independently with residents with Alzheimer's or other dementia illnesses and disorders, and a minimum of eight (8) hours of specialized training in dementia care annually thereafter;

(4) The dementia care unit shall maintain documentation reflecting course content, instructor qualifications, agenda, and attendance rosters for all training sessions provided; and

(5) Completion of orientation and training required pursuant to this section and Section 10 of this Act shall be deemed to satisfy the requirements of KRS 216B.072.

Music and lyrics by Bob Dylan

Performed by Keb’ Mo’

https://youtu.be/nPJJya-APo4

(1) No assisted living community may operate unless it is licensed under this chapter. A licensee shall be legally responsible for the management, control, and operations of the facility, notwithstanding the existence of a management agreement or subcontract.

(2) The following categories are established for assisted living community licensure:

(a) An assisted living community license for any assisted living community without dementia care or services; and

(b) An assisted living community with dementia care license for an assisted living community that provides assisted living services and dementia care services in a secured dementia care unit.

(3) On or after the effective date of this Act, no assisted living community shall operate as a dementia care unit without first obtaining an assisted living community with dementia care license from the cabinet. No license issued pursuant to this section shall be assignable or transferable.

(1) A licensed personal care home in substantial compliance with Section 2 of this Act shall be licensed as an assisted living community as of the effective date of this Act. The cabinet shall issue an assisted living community license to the facility to replace its personal care license. If the personal care home has a dementia care unit, the replacement license shall be an assisted living community with dementia care license.

(2) A licensed personal care home that does not comply with Section 2 of this Act on the effective date of this Act may file an application with the cabinet to change its license from personal care home to assisted living community or assisted living community with dementia care:

(a) Within twelve (12) months after the effective date of this Act once it complies with the physical plant requirements of an assisted living community as of the effective date of this Act; or

(b) After twelve (12) months of the effective date of this Act once it complies with the physical plant requirements of an assisted living community in effect at the time of its application.

(1) Violations of the administrative regulations, standards, and requirements set forth by the cabinet pursuant to Section 4 of this Act, the applicable provisions of KRS 216.515 to 216.525, 216.537 to 216.555, 216.567, 216.590, and Sections 29 to 34 of this Act shall be cited and referred to as citations or deficiencies and shall not be subject to or be categorized as Type A or Type B violations.

(2) When an assisted living community self-reports to the cabinet facts or an event that constitute a violation of the administrative regulations, standards, and requirements set forth by the cabinet pursuant to Section 4 of this Act, the applicable provisions of KRS 216.515 to 216.525, 216.537 to 216.555, 216.567, 216.590, and Sections 29 to 34 of this Act, the violation shall be shown on all related documents as having been reported to the cabinet by the assisted living community, and shall not be deemed a complaint.

(3) Violations of the administrative regulations, standards, and requirements set forth by the cabinet and any civil monetary penalties assessed shall be cited solely on the basis of substantiated actual occurrences, and shall not be based on perceived potential outcomes or occurrences.

(4) A citation for a violation shall specify the time within which the violation is required to be corrected as approved or determined by the cabinet. If a violation is corrected within the time specified, no civil penalty shall be imposed.

(5) Civil monetary penalties for violations of the administrative regulations, standards, and requirements set forth by the cabinet shall not be assessed in excess of five hundred dollars ($500) for each distinct violation. Civil monetary penalties shall not be assessed unless substantial harm to a resident occurred as a direct result of the cited violation.

(6) In determining the amount of any civil monetary penalty to be imposed under this subsection, the cabinet shall consider at least the following:

(a) The gravity of the violation, the severity of the actual harm, and the extent to which the provisions of the applicable statutes or administrative regulations were violated;

(b) The reasonable diligence exercised by the licensee and efforts to correct violations;

(c) The number and type of previous violations committed by the licensee; and

(d) The amount of the imposed penalty necessary to ensure immediate and continued compliance.

(7) An assisted living community that is assessed a civil monetary penalty shall have the amount of the penalty reduced by the dollar amount that the facility can verify was used to correct the deficiency if the condition resulting in the deficiency citation existed for less than thirty (30) days prior to the date of the citation.

Section 25. KRS 216.510 is amended to read as follows:

As used in KRS 216.515 to 216.530:

(1) "Long-term-care facilities" means those health-care facilities in the Commonwealth which are defined by the Cabinet for Health and Family Services to be *assisted living communities*, family-care homes, personal-care homes, intermediate-care facilities, nursing facilities, nursing homes, and intermediate care facilities for individuals with intellectual disabilities;

(2) "Resident" means any person who is admitted to a long-term-care facility as defined in KRS 216.515 to 216.530 for the purpose of receiving personal care and assistance; and

Section 26. KRS 216.515 is amended to read as follows:

Every resident in a long-term-care facility***, excluding assisted living communities licensed pursuant to KRS 194A.700 to 194A.729,*** shall have at least the following rights: [Residents' rights]

(f) "Long-term care ombudsman" means the person responsible for the operation of a long-term care ombudsman program which investigates and resolves complaints made by or on behalf of residents of long-term care facilities ***except for assisted living communities***;

(1) Prior to admission to a personal-care home *or assisted living community*, an individual shall have a medical examination that includes a medical history, physical examination, and diagnosis. If completed within fourteen (14) days prior to admission, the medical evaluation may include a copy of the individual's discharge summary or health and physical report from a physician, hospital, or other health care facility.

(2) No person under the age of eighteen (18) years shall be admitted to a personal-care home *or assisted living community*.

The bill has been formally endorsed by all three associations that comprise Coalition Partners:

- KY Senior Living Association (KSLA)
- KY Association of Health Care Facilities (KAHCF) / KY Center for Assisted Living (KCAL)
- LeadingAge Kentucky

Bill sponsor: Senator Ralph Alvarado

Health, Welfare, & Family Services Interim Joint Committee, Co-Chair

Senate Health & Welfare Committee, Chair

Next steps:

•Discussions concerning the bill continue with Cabinet for Health and Family Services and Alzheimer's Association leadership.

• The most recent meeting with Cabinet for Health and Family Services leadership to discuss the bill was held August 31, 2021.

• It is anticipated that Senator Alvarado will pre-file the bill in September or early October

- CPs through their members will advocate for passage of the bill
  - Calls to legislators
  - Meetings with legislators

- The bill hearing is expected to be October 20 before the Health, Welfare, & Family Services Interim Joint Committee
  - Senator Alvarado will chair the committee meeting
  - The purpose of the hearing will be to explain the bill and provide opportunity for testimony

- The bill will be before the General Assembly during the 2022 session that begins in January

- Advocacy by KSLA members will be crucial to getting the bill passed

- Section 55 of the Kentucky Constitution currently provides that "[n]o act, except general appropriation bills, shall become a law until ninety days after the adjournment of the session at which it was passed, except in cases of emergency…"
    - If the bill passes, the likely effective date would be mid-July 2022, unless delayed for development of regulations
- CPs and Consultant expect to fully participate with CHFS in development of the regulations
- Q&A

Music and lyrics by Bob Dylan

Performed by Artistas Colombianos:
Aida Bossa, Zharick León, Carlos Manuel Vesga, Variel Sánchez, Julio Sánchez Cóccaro, Carmenza Gómez, Andrés Pelaez, Gelo Arango, & Majida Issa

https://youtu.be/ow3pLtvMaI8