

Joint Legislative Audit and Review Commission



Final Report: Impact of Assisted Living Regulations

Joint Commission on Health Care Briefing
October 17, 2007

Study Mandate

- Item 21E of the Appropriation Act directs JLARC to report on impact of new regulations for assisted living facilities

In This Presentation

- Assisted Living in Virginia
- New Law and Its Implementation
- Assisted Living Facilities of Concern
- Cost Impact of New Law and Regulations

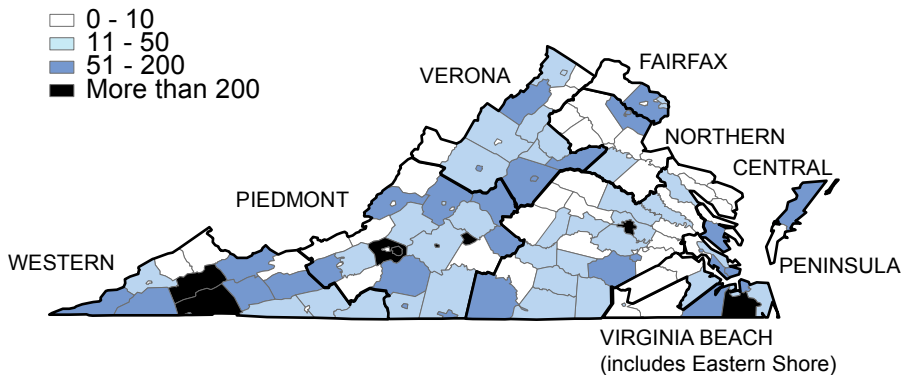
Assisted Living at a Glance

- What is assisted living?
 - Non-medical residential settings provide personal and health care services and 24-hour supervision
- Who oversees Virginia's ALFs?
 - Licensed by Department of Social Services if 4 or more residents
 - Other regulations by Department of Health and Department of Health Professions
- What are key characteristics of ALFs in Virginia?
 - 583 licensed facilities: 4 to 500 beds (average: 55)
 - 32,000 statewide capacity
 - 81% private pay

ALF Population & Facility Size Increasing

- Capacity grew 207% from 1979 to 2007 – from 10,420 to 31,964
 - Outpaced 43% State population growth
- Number of Virginians 85 and older expected to double between 2000 and 2030

Auxiliary Grant Beds Not Available in 41 Localities



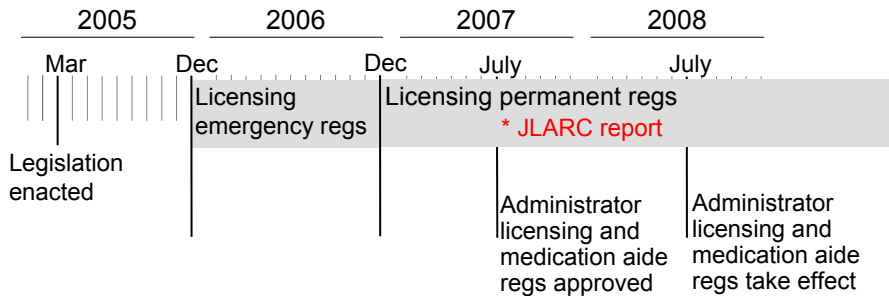
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2005 Legislation Required 3 Sets of Regulations

- **Board of Social Services** (DSS) licensing authority enhanced
 - Increased maximum fine to \$10,000
 - Streamlined license suspension
 - Required DSS to issue emergency regulations
- **Board of Nursing** (BON) to register medication aides
 - Aides must pass State exam and register by July 2008
 - ALFs must develop medication management plans
- **Board of Long-Term Care Administrators** (BLTCA) to license ALF administrators
 - Draft licensure regs developed, not yet finalized

Regulations Phase In Over Time



ALF Administrator Licensing Delayed

- Governor questioned BLTCA draft regulations
 - Need for both national and State exam
 - Required amount of administrator-in-training hours
 - Sufficiency of candidate pool
- BLTCA met July 10 and adopted changes
 - Dropped test on State law
 - Changed initial licensure requirements, lowering required time as Administrator-in-Training
 - Altered 'preceptor' requirements
- Draft regulations now in Governor's Office

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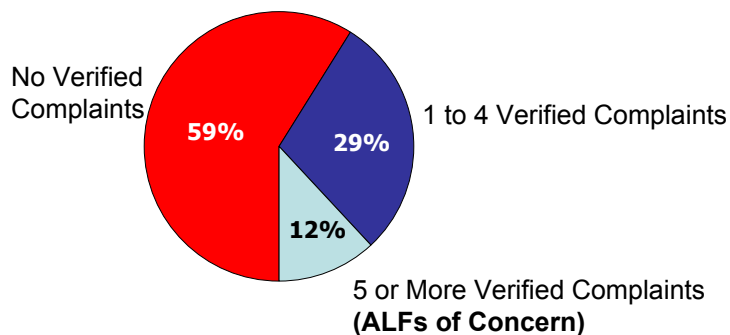
Finding

- 114 ALFs (20%) had significant compliance problems and/or verified complaints

"Quality" Not Defined in Statute or Regulation

- To identify ALFs of concern, JLARC used data on compliance with standards and verified complaints
 - DSS staff monitor ALFs for compliance
 - Complaints investigated by
 - Long-Term Care Ombudsman in Area Agencies on Aging
 - DSS Adult Protective Services
 - DSS Division of Licensing Programs

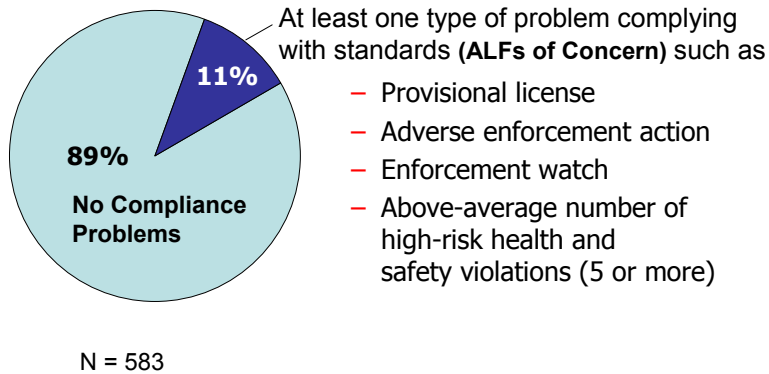
1 in 8 ALFs Had 5 or More Verified Complaints in 2006



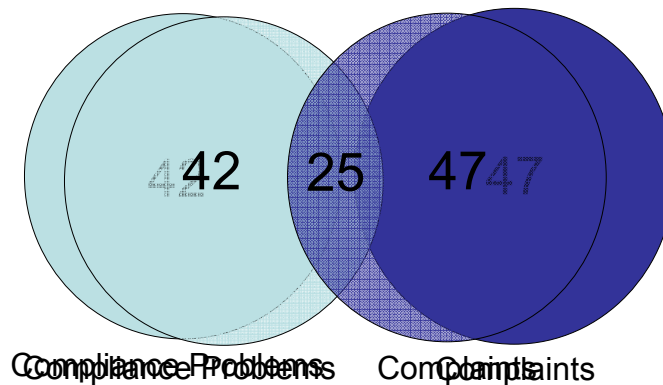
N = 583

5 = Average number of verified complaints, for ALFs with complaints

1 in 9 ALFs Had a Recent History of Problems Meeting Standards



25 ALFs Had Both Verified Complaints and Compliance Problems in 2006



Characteristics of ALFs of Concern

- Larger: capacity of 20 or more
- More prevalent in 4 of 8 DSS regions: Western, Fairfax, Piedmont, Verona
- Serve more auxiliary grant recipients
 - 23 per ALF (compared to 11 for all ALFs)
 - 40% of capacity (compared to 31% for all ALFs)

One Year Later: ALFs Of Concern as Identified in JLARC 2006 Status Report

Status	Number	Percent
Improved; No Longer "Of Concern"	56	41%
Closed	12	9%
Closed & Reopened Under New Ownership	10	7%
Remain "Of Concern"	59	43%
Total	137	100%

Finding

- Quality of key services continues to be a problem
 - Medication administration
 - Staffing
 - Access to mental health services



Medication Administration Still of Concern

- 18% of verified licensing complaints were medication-related (22% last year)
- 8 of 10 most frequently cited high-risk health and safety violations were medication-related (same as last year)
- Most frequent problems (same as last year)
 - Failure to follow physicians' prescriptions and orders
 - Inadequate documentation
 - Inadequate staff training
- Registration of medication aides required by 2005 law takes effect in July



Adequacy of Staffing and Training Still of Concern

- Second-most frequent licensing complaint
- More than 400 complaints of resident abuse or neglect verified in 168 ALFs
- Staffing a factor in three-fourths of adverse enforcement actions issued



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Finding

- New law and regulations will require new fees and increase costs



Fees and Training Costs Increasing

- ALF administrator licensing draft standards
 - High school or GED, exam, annual fee, training and education requirements (some exceptions)
- Medication aide registration standards
 - Annual fee, training, exam
- DSS standards
 - On-site quarterly reviews of special diets by dietitian or nutritionist



Facility Costs Increasing

- Air conditioning by June 2007 for “largest common area used by residents”
 - Estimates exceed \$10,000 for older ALFs
 - Air conditioning in all areas used by residents in 2012
 - Many but not all ALFs already air conditioned
- Connection to temporary electrical power required by July 2007



Typical Costs Imposed by New Law and Regulations

	Cost per “Average” ALF
Administrator Licensing	\$200 + training
Medication Aide Registration	\$120 + training
Dietitian Review of Special Diets	\$120-1,200/year
Temporary Electrical Power	0-\$6,000 +
Air Conditioning	0-\$10,000 +
Total Potential Costs	\$440-17,520 +



Finding

- Auxiliary grant increases have not accounted for cost of new requirements; the rate remains below market prices



Auxiliary Grant Has Increased

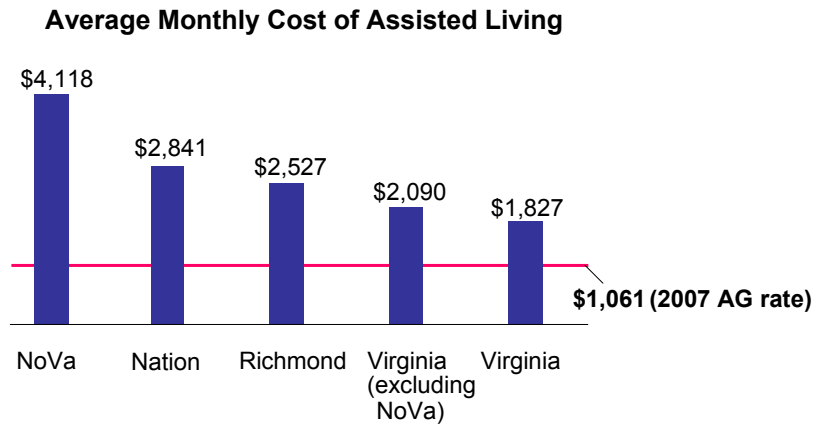
- More than 50% of ALFs are partly or totally dependent on State auxiliary grant funding
 - Majority of residents receive auxiliary grant funding in at least 208 ALFs; another 100 ALFs have at least one auxiliary grant recipient
- As of July, the auxiliary grant rate is \$1,061 per month, with \$75 personal allowance

SSI	\$ 623
State	\$ 350
Local	\$ 88
Total	\$1,061

- Rate is not tied to cost or quality of care



Auxiliary Grant Rate Is Below Market Prices

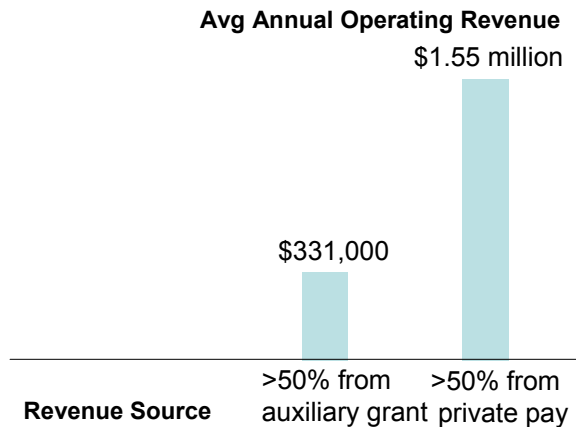


Auxiliary Grant May Not Be Sufficient for Compliance

- ALFs of concern serve more auxiliary grant recipients
- ALFs serving auxiliary grant recipients have less revenue available



ALFs Serving Auxiliary Grant Recipients Have Less Revenue Available



Key Findings

- As new law and regulations phase in, some ALFs continue to experience problems
 - Medication administration, staffing, mental health services
- Auxiliary grant beds may not be available in the areas they are needed
 - 41 localities have none
- New law and regulations impose added costs on ALFs and ALF staff but adjustments to auxiliary grant rate have not been adequate – the rate remains well below the market

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