

The ***Alliance for Retired Americans*** supports a social insurance model for a long-term care system that incorporates a range of quality care that is affordable and based on health and physical needs, not income levels; protects an individual's right to choice of provider and care environment; guarantees enforcement of quality assurance measures; and recognizes the essential role of paid and unpaid caregivers.

## Summary

Nursing home residents are among the most vulnerable people in the country as they rely on others for assistance with daily activities as well as nursing and rehabilitative care. Despite numerous studies, Congressional hearings, federal and state legislation and regulations, America's nursing home residents remain subject to abuse and neglect. The means of protecting them are still falling short.

There are 1.6 million Americans residing in 17,000 nursing homes and the numbers will grow with demographic changes. Trends indicate that one in four persons over the age of 25 will have at least one stay in a nursing home during their lifetime. The average resident requires assistance with nearly four of five essential activities of daily living (ADLs).

Today's nursing homes are the descendants of the English "poor law" system of 400 years ago when the poor and infirm were relegated to almshouses. In the U.S., the aged were often cared for in county homes and boarding houses. Enactment of the Medicare and Medicaid programs in 1965 provided a source of federal funding leading to greater federal involvement in establishing and monitoring standards and services. Congress passed nursing home reform amendments that were incorporated into the Omnibus Budget Reconciliation Act of 1987 that resulted in new standards and delineated the rights of nursing home residents.

**Staffing is key to any progress in improving the quality of nursing home care.** Nursing home staff and management cannot produce a decent environment for residents until there are vast improvements in staffing ratios, staff and management training, decent pay, benefits and incentives, and safety protections. Certified nursing assistants provide 90 percent of the hands-on care in nursing homes.

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### **Promises Not Kept**

“There were three occasions in which my mother was dropped and injured. One fall necessitated having her head stitched. My mother sat or laid in wet soiled clothes or bedding. The problem was never incompetent or uncaring staff. It was always too few people to care for the nursing home residents. Complaints always led to promises by the nursing home director that these things would never happen again, but of course they did—over and over again!”

*Anonymous. Nursing Home Community Coalition of New York State*

**States license nursing homes.** States also conduct an annual survey and certification process if the home receives payments for resident care from the Medicaid or Medicare programs. In a 2001 General Accounting Office report, one-fourth of nursing homes were cited for serious deficiencies that caused actual harm to residents or placed them at risk of death or serious injury. The federal nursing home reform law requires states to receive complaints and provide timely review and investigation of allegations of abuse or neglect. Forty percent of abuse violations documented by state inspectors are found as a result of complaints. Yet, complaints are considered to be underreported.

**Enforcement of federal and state laws and regulations has been inconsistent over the years.** The Health Care Financing Administration (HCFA) took nearly seven years before publishing enforcement rules implementing the 1987 nursing home reform law. The Centers for Medicare and Medicaid Services (CMS), the renamed HCFA, has even stepped backwards by proposing to allow nursing homes to use single-task workers to assist with feeding residents thus undermining progress toward development of a trained, well-compensated direct care nursing workforce. Despite over a decade of studying appropriate minimum staffing in nursing homes, CMS and the U.S. Department of Health and Human Services (HHS) will not recommend a standard to Congress, stating that the staffing shortage will be resolved through market forces and more efficient use of existing nurse staffing.

**Advocacy on behalf of nursing home residents most frequently takes place through the Long Term Care Ombudsman program;** through national and state advocacy groups; within resident and family councils; and by individual efforts.

**Both the federal and state governments have a responsibility to ensure quality of care in nursing homes through collaborative and rigorous enforcement actions.** Nursing home administrators can also introduce innovative initiatives such as those seen in the “culture change” movement. There are a number of initiatives that individuals, family members and organized groups can take.

This report is written to be a basis for informed activism on behalf of nursing home residents. With expanded and unwavering advocacy, the United States will be able to make improvements in enforcement processes, increase staffing levels and enhance the workplace and living environments of nursing homes and thus assure quality care in the nation’s nursing homes in the 21st century.



# Florida

## Facts on Florida Nursing Homes

There were 734 nursing homes in Florida in 2000 with 83,639 beds and 69,122 residents. The occupancy rate was 86 percent. The average number of beds per facility was 114. Seventy-six percent of Florida nursing homes are proprietary, 22 percent are non-profit, and 2 percent are government owned. Seventy percent of nursing homes are owned/leased by chains. Ninety-three percent have resident groups, 74 percent have family groups.

Currently, direct care nursing staff hours per resident day averages at 0.8 for RNs, 0.9 for LPNs and 2.1 for CNAs for a total of 3.8 hours.

As of June, 2001, nursing staff vacancy and turnover rates in Florida, the South Atlantic region and the U.S. are shown in the following chart.

**Most frequent deficiencies from surveys:** Failure to ensure sanitary food (38 percent); failure to develop comprehensive care plans (28.4 percent);

and failure to maintain or enhance dignity and respect (24.5 percent). The latter involves assisting with appropriate dressing and grooming, promotion of independence in eating, allowing private space and property, speaking and listening respectfully, and focusing on an individual's communication.

Seventeen percent of nursing homes in Florida received deficiencies in 2000 that caused harm or immediate jeopardy to residents.

**Most frequent complaints as reported to ombudsman program:** Understaffing; followed by gross neglect; and symptoms unattended and/or no notice to family members of change in condition.

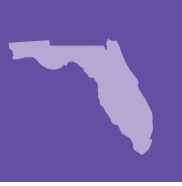
Nearly 80 percent of LTC ombudsman funding in Florida comes from federal programs such as the Older Americans Act and 21 percent comes from state funds.

*Sources: Administration on Aging. 2000 National Ombudsman Reporting System Data Tables; American Health Care Association. Facts and Trends: The Nursing Facility Sourcebook 2001; Harrington, Charlene et al. Nursing Facilities, Staffing, Residents, and Facility Deficiencies, 1994-2000. (June 2001)*

## Nursing Staff Vacancy & Turnover Rates, Florida, South Atlantic Region, U.S.

	Florida		South Atlantic Region		U.S.	
	Vacancy	Turnover	Vacancy	Turnover	Vacancy	Turnover
RN	18.2%	71.1%	18.7%	67.3%	18.4%	55.5%
LPN/LVN	14.7	57.9	14.7	57.5	14.4	51.5
CNA	10.2	69.1	11.5	78.8	11.7	76.1

*Source: American Health Care Association. Preliminary Results of the 2001 AHCA Nursing Position Vacancy and Turnover Survey. October 4, 2001.*



## ***Background***

The Florida Agency for Health Care Administration (AHCA) is responsible for licensing and certification of nursing homes. For decades the state has attempted to make improvements in the quality of care provided in nursing homes at the urging of advocates for residents and as a result of media exposures of substandard care in some nursing homes. At the same time, the nursing home industry has lobbied the Florida legislature to limit the ability of individuals to sue nursing homes, allowed under Florida law, and cap the amount that may be awarded in lawsuits.

## ***State response***

In its 2000 session, the Florida legislature created the Task Force on the Availability and Affordability of Long-Term Care, whose purpose was to assess: 1) the current long-term care system in terms of the availability of alternatives to nursing homes, 2) financing LTC, 3) the quality of care in nursing homes and 4) the impact of lawsuits against nursing homes and other long-term care facilities on the costs of care and the financial stability of the long-term care industry. The 693 page report of the task force was submitted on February 16, 2001. Additionally, recommendations were made in these designated areas by an interim report of the staff of the Senate Committee on Health, Aging and Long-Term Care also released in February, 2001.

Subsequently, enacted Senate Bill 1202 addresses the quality of care issue comprehensively. Among the numerous provisions of this legislation:

- ▶ Requires attorney general and AHCA to study electronic monitors in resident rooms and report results by January 1, 2002.
- ▶ Requires quality-of-care monitors to visit each nursing home at least quarterly
- ▶ Requires nursing homes to identify controlling interests as a condition for licensure
- ▶ Requires nursing homes to submit information semi-



annually regarding staff to resident ratios, staff turnover and stability

- ▶ Requires nursing homes to implement an internal risk-management and quality-assurance program to assess patient care, including analysis of resident grievances relating to resident care, and to develop plans of action to correct deficiencies
- ▶ Provides that persons who provide care to those with Alzheimer's disease complete dementia-specific training
- ▶ Requires nursing assistants, as a condition of maintaining certification, submit to performance reviews and receive regular in-service education defined as at least 18 hours per year.
- ▶ Establishes or codifies a minimum staffing standard for CNAs of 2.3 hours of direct care per resident per day (PRPD) in 2002, increasing incrementally to 2.9 hours by 2005. CNA ratio is never to be below 1 CNA per 20 residents.
- ▶ Establishes a minimum licensed nursing standard of 1.0 hour PRPD; ratio never to be below 1:40
- ▶ Raises the minimum amount of civil monetary penalties or fines for all classes of deficiencies
- ▶ Requires AHCA to designate a portion of Medicaid's nursing home rate be used exclusively for wage and benefit increases for nursing home direct care staff.

The sweeping law passed without nursing home industry opposition as the industry wanted a trade-off in the form of changes to tort law that limits an individual's ability to sue nursing homes and caps the amount allowed for settlements which were incorporated.

### ***What Needs To Be Done:***

SB 1202 has numerous provisions that will improve the quality of care in nursing homes. Now, the state should move forward to implement and enforce the law, without amending immediately as the nursing home industry is attempting to persuade legislators to do.