



The Resident CONNECTION

2nd Quarter 2021



President's Message

The Florida legislature was challenged during this past legislative period with many issues dealing with protections for seniors. I hope you read the summaries FLiCRA Staff sent to keep us informed of the results.

As we move into the summer months, it is startling to realize that we are still contending with a year and a half of the COVID-19 pandemic. Here are some of the reflections from CCRCs around Florida:

“Our chapter is optimistically planning an event for this Fall. We hope by then to be back to ‘normal’ and to be able to hold our postponed Annual Meeting and provide an opportunity for residents to mingle.”

“We, also, are hoping to have our annual meeting this fall, and given our vaccination rate, it looks good. We have 99 percent of our independent living (IL) residents vaccinated and 70 percent of IL staff vaccinated. Our restaurants are opening up more and we are able to dine with other couples, previously limited to one couple exclusively.”

“Our fitness center has reopened as it was prior to the outbreak, meaning no appointments, although [the] number of spots is limited and masks are required.”

“The thing that was most difficult for our residents was the inability to gather, especially for those who are singles. The isolation was difficult for many.

Once we received our vaccinations we were allowed to gather in small groups, 10 or fewer, wearing masks and socially distanced.”

Some communities have actually been able to reopen their dining rooms to 100 percent capacity. We have much to be thankful for. Management of CCRCs around Florida have acted responsibly and effectively to keep us safe. Clearly, many communities have continued to attract new residents during this period. As we emerge from our cocoon into the freedom of a vaccinated world, we will be looking for ways to restore our physical and emotional balance.

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Brain Wealth founder Phyllis T. Strupp, an award-winning author and brain training expert, recently defined “interrelated abilities that all older people should enjoy:

1. Meet basic human needs
2. Continue to learn and make decisions
3. Be mobile
4. Build and maintain relationships
5. Contribute to society

It is time to think about elections for the opening regional director positions, as well as one director-at-large position on the state board of directors. These are important positions. The folks who hold them set FLiCRA policies, keep members informed, and support members in actions vital to residents of CCRCs such as letter-writing campaigns to our legislators. Please consider if these are roles you would like to play and submit your information.

Diane Dalsimer, FLiCRA State Board President

Passing of Former FLiCRA State President Charles “Charlie” Paulk

Charlie Paulk passed away on March 9. Mr. Paulk was one of the early founders and most influential forces in the National Continuing Care Residents Association (NaCCRA). Charlie was a consummate volunteer on behalf of residents.

He served as a representative to the U.S. Senate Special Committee on Aging, Government Accountability Office project on Continuing Care Retirement Communities; served as a member of the Florida Governor’s Continuing Care Advisory Council; served on several FLiCRA/LeadingAge Florida Joint Task Forces and he served as state president of FLiCRA.

Charlie was a retired U.S. Army Colonel with exemplary service in Vietnam.

FLiCRA’s thoughts go out to Charlie’s family including Laverne, his wife of 69 years, who traveled with him to many state and national meetings on behalf of FLiCRA and NaCCRA.

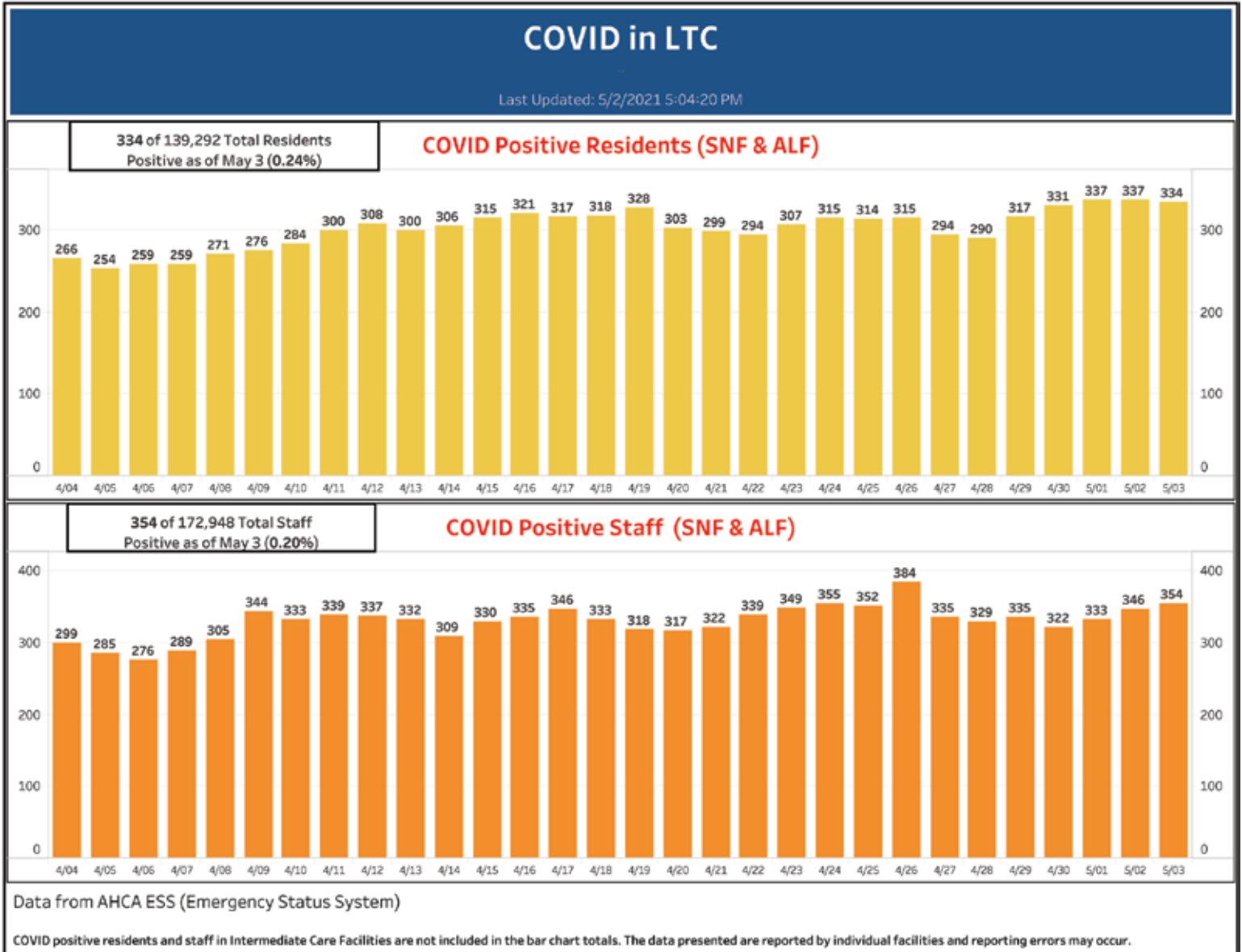
A tribute to Mr. Paulk can be found at youtu.be/BgQpWR8Z9tY and memorial information is provided at: Charles Paulk Obituary (2021) - Lakeland, FL - The Ledger (legacy.com)

COVID-19 Vaccination Updates for Nursing Home Staff in Florida

Despite state and federal attempts to offer vaccinations at all nursing homes and assisted-living centers in the state, 62 percent of staffers have declined. Nursing homes are mandated to test their workers regularly for COVID-19 but assisted living facilities are not.

Sources: http://ww11.doh.state.fl.us/comm/_partners/covid19_report_archive/long-term-care-facilities/ltof-case-reports/ltof_latest.pdf

<https://www.sun-sentinel.com/coronavirus/fl-nursing-home-workers-20210410-gp7m5p52gjpgppvfgwmhvqoucu-story.html>



2021 Legislative Session Wrap-Up

Senate Bill 72

COVID-19 Related Claims Against Health Care Providers

Senate Bill 72 creates civil liability protections for individuals, businesses, governmental entities, and other organizations against COVID-19 related claims.

Senate Bill 72 passed both legislative chambers in March. The Governor signed the bill March 29.

It is important for residents to understand Florida nursing home litigation law that was in place prior to the passage of Senate Bill 72.

Before COVID-19, and the new Senate Bill 72 that was just signed by the Governor, Florida law already had a very comprehensive nursing home litigation process.

It is extremely important to note that Senate Bill 72 only relates to COVID-19 related claims against Florida nursing homes including those at CCRCs.

Other nursing home claims are covered under other aspects of Florida law and those laws in their current form have been on the books for twenty years.

The last major reform to nursing home lawsuit processes in Florida was in 2001.

The 2001 Florida nursing home reform came about in large part to significant increases in nursing home insurance liability premiums. Most nursing home litigation, legitimate or not, is handled out of court and is settled by the insurance provider on behalf of a nursing home.

The 2001 Florida reform was a result of a three-to-four year period where nursing home liability insurance premiums went up in some cases by 150 percent even for nursing homes with no claims.

In a CCRC, where a nursing home claim is or was filed, residents end up paying those costs in higher

monthly maintenance fees due to “significant increases in operating expenses.”

Senate Bill 72, as passed for health care providers, allows access for residents and their families to file a claim for negligence.

Link to Senate Bill 72: flsenate.gov/Session/Bill/2021/72

To help residents understand how nursing home lawsuits (outside of COVID-19 claims) are filed in Florida, the information below gives a step-by-step process for a “claim” to meet muster.

Florida lawyers must complete a statutory pre-suit investigative and notice process before a lawsuit can be filed for injuries or death resulting from nursing home neglect. Florida Statute 400.0233 sets forth the requirements that must be met before a lawsuit can be filed against a nursing home.

First, the statute requires that the injured victim’s lawyer conduct an investigation regarding the claim. This, of course, starts with obtaining the resident’s records.

By statute, nursing homes are allowed 30 “working days” in which to provide the records of a former resident. Next, the plaintiff’s attorney must review the records to gain an understanding of the following: resident’s normal baseline conditions; the resident’s symptoms or changes in conditions; the nursing home staff’s response to those symptoms; the effort taken by the nursing home to prevent an accident, injury or infection; and the involvement of any unrelated medical care providers.

Next, the plaintiff’s attorney must determine whether serious injury or death was caused by failures on the part of the nursing home operator. If the plaintiff’s attorney is convinced that the nursing home was negligent, and that such negligence caused serious harm or death, the next step required by the statute is to have the matter reviewed by a licensed physician or registered nurse.

If the reviewing registered nurse or physician comes to the conclusion that the nursing home departed from the nursing standard of care, then the attorney must draft a pre-suit notice to every “prospective defendant.”

**House Bill 1041/Senate Bill 1344
Protection of Elderly Persons and Disabled Adults**

These bills seek to strengthen existing laws to protect vulnerable individuals from abuse as it relates to wills, estates and trusts.

House Bill 1041 passed both legislative chambers. It now awaits the Governor’s signature.

- Prohibits a person who commits the following offenses on an elderly person or disabled adult from inheriting from the victim’s estate, trust, or other beneficiary assets:
 - Abuse; Neglect; Exploitation; or Aggravated manslaughter.
 - Authorizes the Office of Statewide Prosecution to investigate and prosecute crimes under chapter 825, F.S.
 - Prohibits unreasonable isolation of an elderly person or disabled adult from his or her family members.
 - Prohibits seeking out appointment as a guardian, trustee, or agent under power of attorney with the intent to obtain control over the victim or his or her assets for the perpetrator or some third party’s benefit.
 - Prohibits intentional conduct by a perpetrator to modify an elderly or disabled victim’s estate plan to financially benefit either the perpetrator or third party in a manner that is inconsistent with the intent of the elderly person or disabled adult.
 - Authorizes agents under a durable power of attorney to petition for an injunction for protection against exploitation of a vulnerable adult.

Link to the House Bill 1041: flsenate.gov/Session/Bill/2021/1041

**House Bill 9/Senate Bill 1608
Protecting Consumers Against Pandemic-Related Fraud**

These bills would prohibit a person from knowingly and willfully making a materially false or misleading statement or disseminating false or misleading information via marketing or advertising materials, on a website, social media platform, or other media, or by telephone, text message, mail, or e-mail.

House Bill 9 passed both legislative chambers and it awaits the Governor’s signature.

- Relating to the characteristics, authenticity, effectiveness, or availability of PPE with the intent to obtain or receive any money or other valuable consideration; or
- Regarding the availability of, or access to, a vaccine for COVID-19 or any other pandemic disease for the purpose of obtaining personal identification information or money or other valuable consideration.

A first offense of either crime is a third-degree felony ranked at a level seven on the offense severity ranking chart, while a second or subsequent offense is a second degree felony ranked at a level eight.

The rankings provided by the bill subject an offender to a state prison sentence for any violation.

The bill authorizes Florida’s Attorney General to seek an injunction to shut down websites or other media platforms disseminating false information about a vaccine for COVID-19 or any other pandemic disease or offering for sale or advertising PPE, when done with fraudulent intent.

Link to House Bill 9: flsenate.gov/Session/Bill/2021/9

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2021 Legislative Session Wrap-Up Cont.

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Senate Bill 368/House Bill 441 Elder Focused Dispute Resolution Process

These bills will create an alternative dispute resolution process for persons 60 years of age and older who are involved in certain legal proceedings, such as guardianships.

House Bill 441 passed both legislative chambers. The bill awaits the Governor's signature.

Specifically, the bill allows a court to appoint an eldercaring coordinator to assist in disputes that can impact an elder's safety and autonomy.

An eldercaring coordinator may be appointed for up to two years, although a court has discretion to extend or suspend the appointment as needed. In order to be appointed as an eldercaring coordinator, an applicant must:

- Meet a professional licensing requirement, such as membership in The Florida Bar or being a licensed nurse;
- Complete three years of post-licensing or certification practice;
- Receive training in family and elder mediation;
- Receive 28 hours in eldercare coordinator training, which will include topics such as elder, guardianship, and incapacity law; family dynamics, multicultural competency, and elder abuse, neglect, and exploitation;
- Successfully pass a background check; and
- Have not been a respondent in a final order granting an injunction for protection against domestic, dating, sexual, or repeat violence or stalking or exploitation of an elder or a disabled person.

Link to House Bill 441: flsenate.gov/Session/Bill/2021/441

House Bill 485/Senate Bill 1132 Personal Care Attendants

These bills will allow a nursing home to employ PCAs if the PCA is participating in the PCA training program developed by the Agency for Health Care Administration (AHCA), in consultation with the Board of Nursing (BON).

House Bill 485 passed both legislative chambers. It awaits the Governor's signature.

The bills require the training program to be at least 16 hours in length and include at least the following topics:

- Residents' rights
- Confidentiality of residents' personal information and medical records
- Control of contagious and infectious diseases
- Emergency response measures
- Assistance with activities of daily living
- Measuring vital signs
- Skin care and pressure sore prevention
- Portable oxygen use and safety
- Nutrition and hydration
- Dementia care.

The bills prohibit a PCA from performing any task that requires clinical assessment, interpretation, or judgment; the bills require a PCA to work exclusively for one nursing home facility; and prohibits a PCA from working for more than one nursing home facility before becoming a CNA.

Link to House Bill 485: flsenate.gov/Session/Bill/2021/485

Call for FLiCRA State Board Nominations

Regional Directors and One Director-At-Large Seat On The State Board

The next slate of the FLiCRA Board of Directors will be elected in the fall at the 2021 annual conference. Due to COVID-19, the dates and location of the annual conference are not finalized at this time. Detailed meeting information will be available in mid-August.

The association is seeking interested members to submit their names for consideration for one of the regional director positions or the one open director-at-large seat this election cycle.

Regional directors will be elected by the chapters within the regions by early fall prior to the annual conference following the process outlined in the FLiCRA state bylaws.

Here are the regions that have seats coming open:

Region 1 (Escambia and Leon counties)

The current Regional Director Charlotte Cummings is completing her first term in office. Under the bylaws, she is eligible for a second term.

Region 7 (Sarasota, Manatee, Polk, Hillsborough and Pinellas counties)

The current Regional Director Ray Neff is completing his first term in office.

Director-at-Large Seat

There is one director at large seat open on the board. For the open at large seat, Jim Jandreau is completing his 2nd three-year term and he is not eligible for re-election. Any interested candidate (statewide) can submit their name for consideration.

The FLiCRA Board of Directors consists of twelve members, four of which are directors-at-large. Previous service as a local chapter board member is not required but may be helpful in fulfilling the duties of a state board member.

Qualities and Duties of FLiCRA State Board Members

- Proven performance
- Commitment
- Time and ability to serve
- Sound judgment and integrity
- Communication and “teaching” skills
- Ability to subordinate special interests
- Be strategic thinkers

The members of the FLiCRA Board of Directors are the stewards of the association and are responsible for reflecting the views and interests of all members. The board also provides leadership, a shared vision and sense of mission for the association and is responsible for the fiscal health of the association. A board member must be a current member of the association.

Effective boards approach their role focusing on policy making not day-to-day operations of the organization.

FLiCRA Board Service Time Requirements

Each term on the board is a three-year term, and a board member can serve up to two consecutive three-year terms in a director position. Officers are one-year terms.

Service on the FLiCRA board requires attendance at up to three in-person meetings a year (February – ½ day meeting in person, May – Teleconference or in person, November ½ day in conjunction with the Annual Conference in person). The FLiCRA state board may also meet by teleconference or Zoom 2-3 additional times a year if necessary.

FLiCRA board members are reimbursed for travel under the following policy: board members may be reimbursed for mileage, lodging and meal expenses for attending FLiCRA meetings.

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Call for Nominations Cont.

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The Regional Director shall work with the President and the Executive Director as follows:

- To develop an annual chapter leaders training program for local chapter officers and directors.
- To communicate information to other chapter officers within the region.
- To gather information from local chapters within the region in order to pass it on to state FLiCRA leaders.
- To identify appropriate sites within the region for state/regional board of directors meetings.
- To identify and recruit residents of non-member/chapter CCRCs in the region.
- To develop contacts with administrators of non-member/chapter CCRCs.
- Coordinate FLiCRA members from the region to testify at County Legislative Delegation Meetings.

In addition:

- Identify potential prospects for future state directors.

- Become the main link between the local chapters and the state organization.
- Collect news about chapter events within the region.
- Encourage all chapter officers to share ideas and news of FLiCRA activities.

The Executive Director and/or staff will assist Regional Directors with:

- Securing speakers for regional meetings.
- Secure and finalize contract agreements with regional facilities for meetings and/or sleeping arrangements.

To assist in developing a slate of candidates, all members who are willing to serve for nomination to the state FLiCRA Board of Directors should submit their names, address, phone numbers and a brief career bio to: Nominations Committee Chair David Bayer c/o FLiCRA, 325 John Knox Road, L103, Tallahassee, FL 32303 or by email to bennett@executiveoffice.org. **Deadline to submit is July 23, 2021.**