



The Assisted Living Consumer Alliance (ALCA) opposes HB4264, which would authorize the Illinois Department of Public Health to conduct on-site reviews of most assisted living facilities that have two-year licenses every two years, rather than annually, as at present. The bill would perpetuate and codify the already inadequate oversight of assisted living facilities in Illinois, which currently assigns only a single surveyor to overseeing the care in all 230 assisted living facilities. Instead of strengthening oversight of these facilities, HR4264 would do the reverse and ensure that more effective oversight could not occur.

ALCA is a national coalition of organizations and individuals dedicated to promoting residents' rights, consumer choice, and safety in assisted living. Strong standards and vigorous enforcement are essential to the achievement of these goals. Thus, we believe that any proposal which would result in decreased oversight should be of great concern to the residents of Illinois who depend on assisted living now, or who might in the future.

Assisted living is a relatively new level of care in the long-term care continuum. By all accounts, assisted living residents have become more frail and in greater need of health care services than originally anticipated, when assisted living was a housing alternative for relatively healthy older people. For instance, according to the Alzheimer's Association, at least half of assisted living residents over 65 have Alzheimer's Disease or another form of dementia. The changing nature of the population and the increasing health care needs of assisted living residents make it unwise as a matter of public policy, from our perspective, to reduce the level of public oversight, even for facilities that appear to be doing a relatively better job of caring for these individuals.

We know from experience with other models of congregate care that quality of care can abruptly change in a facility following a change in key personnel, such as an administrator, or for other reasons that are not likely to be foreseen by residents and their families. A facility that appears to be providing high quality of care can suddenly decline, and vice versa. To assume that a facility will continue to provide the same quality of care as before may be unwarranted. Given that assisted living facilities are entrusted with the lives of their residents (who are often frail and in declining health), it is crucial to maintain consistent, vigorous, and meaningful oversight to ensure that this vulnerable population is safe and protected.

We understand that a purpose of the bill is to target scarce survey resources on facilities that appear to have worse compliance records. While such an approach appears rational, it misses the point that the central purpose of a regulatory system is protecting health care beneficiaries and preventing avoidable harm. *California Association of Health Facilities v. Department of Health Services*, 16 Cal.4th 284, 940 P.2d 323, 65 Cal.Rptr.2d 872, 885 (1997). Extending surveys to two years for so-called better facilities reduces oversight until more serious problems in care for

residents actually occur, even if those problems could have been avoided. A better approach, from our point of view, is securing sufficient public funds from the outset to ensure that the regulatory system can perform its appropriate police power function – conducting surveys to protect consumers and prevent avoidable harm.

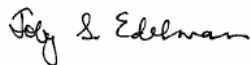
In addition, the bill's criteria for extending a survey from one to two years appear to be so minimal – no Type 1 or Type 2 or 10 or more Type 3 violations in the preceding 24 months and no admission or retention of residents who are inappropriate for the level of care in the preceding 24 months – that the overwhelming majority of facilities would qualify for a two-year survey. Rather than an exception for the best facilities, a two-year survey would become the norm for most facilities.

We also believe that the trend is for states to increase and strengthen their oversight of assisted living facilities, particularly as residents become more frail and more in need of health care services. HB4264 would move Illinois in the opposite direction.

We urge that an annual survey be retained and that the state provide sufficient resources to the survey agency to fund the assisted living survey process appropriately. The current situation – a single surveyor for 230 facilities – is grossly inadequate to provide the type of oversight that assisted living residents need and deserve.

* * *

Respectfully submitted,



Toby S. Edelman
ALCA Vice-President
Senior Policy Attorney
Center for Medicare Advocacy
1025 Connecticut Avenue, NW
Suite 709
Washington, DC 20036
(202) 293-5760
tedelman@medicareadvocacy.org



Richard J. Mollot
ALCA Treasurer
Executive Director
Long-Term Care Community Coalition
242 West 30th Street
Suite 306
New York, NY 10001
(212) 385-0355
richard@ltccc.org

February 20, 2008

The Assisted Living Consumer Alliance (ALCA) is a national collaboration of groups and individuals who have joined together to promote and preserve choice, safety, and legal rights and protections for assisted living consumers. ALCA members serve as a resource for information and advocacy, and work collaboratively with consumers, health care professionals and others to examine assisted living policies and to engage stakeholders and policymakers on important assisted living issues. <http://assistedlivingconsumers.org/>