



Dear Members,

Here is an update on Mass-ALA's advocacy related to the Massachusetts Office of the Attorney General's (AGO) proposed consumer protection regulations for Assisted Living Residences (ALRs), to be codified at 940 CMR 40.00 et seq. We provided verbal testimony at the public hearing on April 29 and also submitted written testimony.

While we share the AGO's commitment to protecting older adults, we have raised significant concerns that the current draft requires substantial revisions to avoid significant negative impacts on assisted living. It is our position that meaningful consumer protection must be balanced with the operational realities of assisted living. We are pushing for a framework that protects residents while preserving the diversity and viability of the assisted living model in the Commonwealth. Mass-ALA remains engaged with the AGO and will continue to advocate for an outcome that respects resident choice and the unique nature of our communities. Assisted living in Massachusetts has grown by more than 20 percent over the last decade because older adults and their families have chosen a model that offers independence, dignity, and personalized care in a residential, non-institutional setting. These regulations, as written, create conflicting and onerous operational requirements that put that model at risk at precisely the moment when more Massachusetts families need access to it. We are asking the AGO to work with us to get this right.

Who testified at the hearing on behalf of Mass-ALA:

- Brian Doherty, President & CEO, Mass-ALA
- Beth Anderson, Mass-ALA Vice Chair; Vice President of Risk Management & Compliance, EPOCH Senior Living
- Heather Berchem, Mass-ALA Legal Counsel, Partner, Harris Beach Murtha

Key priorities we shared with the Attorney General in our comments:

- **Protect Private-Pay Models:** We expressed concerns that requiring participation in all subsidy programs would strain operations and deter industry growth.
- **Preserve the Assisted Living Model:** We urged the AGO to maintain a residential, non-institutional environment that allows diverse models to thrive without burdensome requirements.
- **Align Upfront Fees with SJC Rulings:** We requested revisions to fee limits to more clearly align with *Ryan v. Mary Ann Morse*, ensuring ALRs can charge for onboarding and related services.
- **Maintain Standard Legal Processes:** We requested the removal of provisions that conflict with existing landlord-tenant law regarding attorney's fees in summary process filings.
- **Allow Voluntary Guarantors:** We advocated for the continued use of voluntary third-party guarantors, consistent with current ALR regulations and residential practices.
- **Update Notice Requirements:** We requested that 60-day notice rules for fee increases not apply to immediate changes necessitated by a resident's increased care needs.
- **Refine Overly Broad Provisions:** We suggested narrowing impractical rules regarding marketing disclosures, emergency definitions, vendor contracts, and 30-day vacancy notices.
- **Limit Per Se Liability:** We urged the AGO to narrow Chapter 93A liability to prevent technical or administrative issues from being classified as unfair or deceptive acts.

If you have any questions, please contact us at Mass-ALA@mass-ala.org.

This update is solely for general informational purposes. It is not intended to replace a full review of the cited regulations or guidance.

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