

South Florida Sun-Sentinel

By Diane C. Lade

February 9, 2008

Jay Sparaga, who has diabetes and uses a wheelchair, moved last year into the Munne Center assisted living facility, south of Miami, where he can get meals and care.

But the management has informed the 60-year-old Sparaga he must leave Sunday. They don't even have to tell him why.

State regulations allow assisted living facilities — whose residents may be very sick or frail, or have no family to look after them — to discharge their residents with a simple 45-day notice, without giving a reason. Residents have no right to appeal.

Florida's Long-Term Ombudsman's program, which advocates for care facility residents, hopes that will change this year. The ombudsman, alarmed by a rising number of complaints about assisted living discharges, supports legislation that would give residents some protection against evictions.

State Ombudsman Brian Lee said Florida's assisted living residents — who pay \$1,800 to about \$4,000 a month for their meals, care and room — aren't covered by landlord-tenant laws.

"Some facilities don't want to handle the clients that require additional care. They discharge folks for convenience," said Lee. "It's horrible for residents."

State Sen. Ronda Storms, R-Brandon, is working on a bill that would require facilities to give residents a reason for their discharge. But the measure stops short of what Lee had pushed for: an appeals process similar to what nursing home residents have.

Nursing homes need to give only 30 days' notice prior to a discharge, but residents can file an appeal within 10 days. The residents then can stay in the nursing home for 90 more days while the appeal is resolved.

Facilities are not allowed to discharge residents for lodging complaints. Sparaga thinks this is real reason the Munne Center wants him to go.

Sparaga said the action came after he and another resident, who also was given a discharge notice, got into a heated verbal argument. Ombudsman representatives unsuccessfully tried to negotiate a compromise. So for now, Sparaga said he will move to an efficiency apartment nearby.

A woman who said she was the Munne Center's administrator said the facility would not comment and declined to give her name.

Assisted living, designed as a bridge between independent living and skilled nursing facilities, has become an increasingly popular housing option for seniors — it's less restrictive and less expensive than a nursing home. There are about 80,000 beds in assisted living facilities statewide, compared to 65,000 in 1990.

Assisted living discharge complaints filed with the ombudsman's office began rising several years ago, making the top 10 list in fiscal year 2005-06. Although the number of reports are small,

advocates say discharges over a resident's or family member's objection probably occur far more often than complaint statistics show.

An analysis of the 2006-07 statistics found complaints were up 25 percent, totaling 93 statewide, with 18 from South Florida. But no one knows the total number of discharges, as assisted living facilities — unlike nursing homes — are not required to report that information. That would change under the proposed legislation, which would require all discharges to be reported to the ombudsman.

Pat Lange, executive director of the Florida Assisted Living Affiliation, said the industry recognizes "there are issues that exist with discharges" and that providers are willing to discuss solutions with state regulators. But adopting nursing home eviction regulations for assisted living centers would not be fair, she said.

Administrators must be able to ask residents to leave if their medical conditions worsen, Lange said, as assisted living facilities are not licensed to care for them.

She said many discharges also occur because the residents stopped paying. Almost all of the residents pay privately, and the facilities can't afford to financially carry them, she said.

Nursing homes primarily are regulated by federal laws, while assisted living centers are controlled by state laws that vary widely.

In a 2005 paper for the National Senior Citizens Law Center, Eric Carlson, president of the Assisted Living Consumer Alliance advocacy group, reported Florida was one of 39 states that allow involuntary discharges "when a facility cannot meet a resident's needs" but most had no criteria for what conditions the facilities should be required to accommodate.

"They can just say, 'We can't meet your needs' and off you go," Carlson said. "You get no hearing."

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