

**Joint Legislative Audit and Review Commission
of the Virginia General Assembly**



**Interim Report: Impact of Assisted
Living Facility Regulations**

**Staff Briefing
November 14, 2005**

Staff for This Study

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Study Mandate

- **Item 21F of the 2004-2006 Appropriation Act requires JLARC to report on the impact of new assisted living regulations, adopted pursuant to HB 2512 / SB 1183**
- **Directs JLARC to determine regulations' impact on:**
 - **The cost of providing services**
 - **Residents' access to providers and other services**
 - **Tangible improvements in quality of care**
- **Interim report required by November 2005**
- **Final report required by June 2006**

Assisted Living Facilities

- ***Code of Virginia* §63.2-100 defines assisted living facilities as:**

any congregate residential setting that provides or coordinates personal and health care services, 24-hour supervision, and assistance, for the care of four or more adults who are aged, infirm or disabled

- **Licensed by Department of Social Services**
- **JLARC reviewed these facilities, the licensing process, and State funding in 1979, 1990, and 1997**

Growth in Assisted Living Facilities

	<u># of Licensed Facilities</u>	<u>Capacity</u>	<u>Average Size</u>
1979	314	10,420	33
1990	470	22,538	48
1997	612	27,537	45
2004	629	34,725	55
Growth	100%	233%	67%

Changes in Population Served

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- **1979 – Almost 20 percent or 2,000 residents had been discharged from State institutions for mentally ill or mentally retarded**
- **1997 – 47 percent of public pay residents had a mental health diagnosis**
- **Residents are said to have more health and mental health issues today than in past**

State Funding for Residents

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- **Most residents are private-pay**
- **Approximately 18 percent are sustained on a combination of federal, State and local funds, principally the auxiliary grant**
- **State auxiliary grant is in addition to SSI. The combined total is \$944 per month (up \$50 per month from last year).**
 - **A personal allowance of \$62 per month is also provided**

Auxiliary Grant Caseload and Payment Trends

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	<u>Average Monthly Recipients</u>	<u>Monthly Rate</u>	<u>Expenditures (millions)</u>
1979	2,281	\$372	\$4.4
1990	5,761	\$602	\$15.5
1997	6,840	\$695	\$19.2
2004	6,386	\$854	\$19.1
Growth	180%	130%	334%

2005 Legislation

■ Enhanced enforcement

- **\$10,000 maximum fine over two-year period**
 - Previous maximum was \$500 per facility inspection
 - Board of Social Services required to develop criteria for use of penalties
- **DSS may summarily suspend a facility license, or a portion, when health, safety, and welfare of residents are threatened**
 - DSS could revoke a license; summary suspension should be quicker
 - Also provides for expedited appointment of hearing officers by Supreme Court

2005 Legislation

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■ Licensing provisions

- Assisted living administrators will be required to hold a license from the Department of Health Professions, beginning July 2007
 - Exempts administrators of facilities that provide only residential level of care
 - Licensure standards now being developed by Board of Health Professions and Board of Long-Term Care Administrators
- Medication aides must be registered with Board of Nursing, beginning July 2007

■ Improved mental health screening and medication management

2005 Legislation

■ Public information requirements

- Facilities will be required to use a standardized disclosure form (developed by DSS) to indicate:
 - Licensure status
 - Basic and supplemental services and fees
 - Ownership structure of the facility
 - Admission, transfer, and discharge circumstances
 - Description of staff qualifications
 - Recreational activities

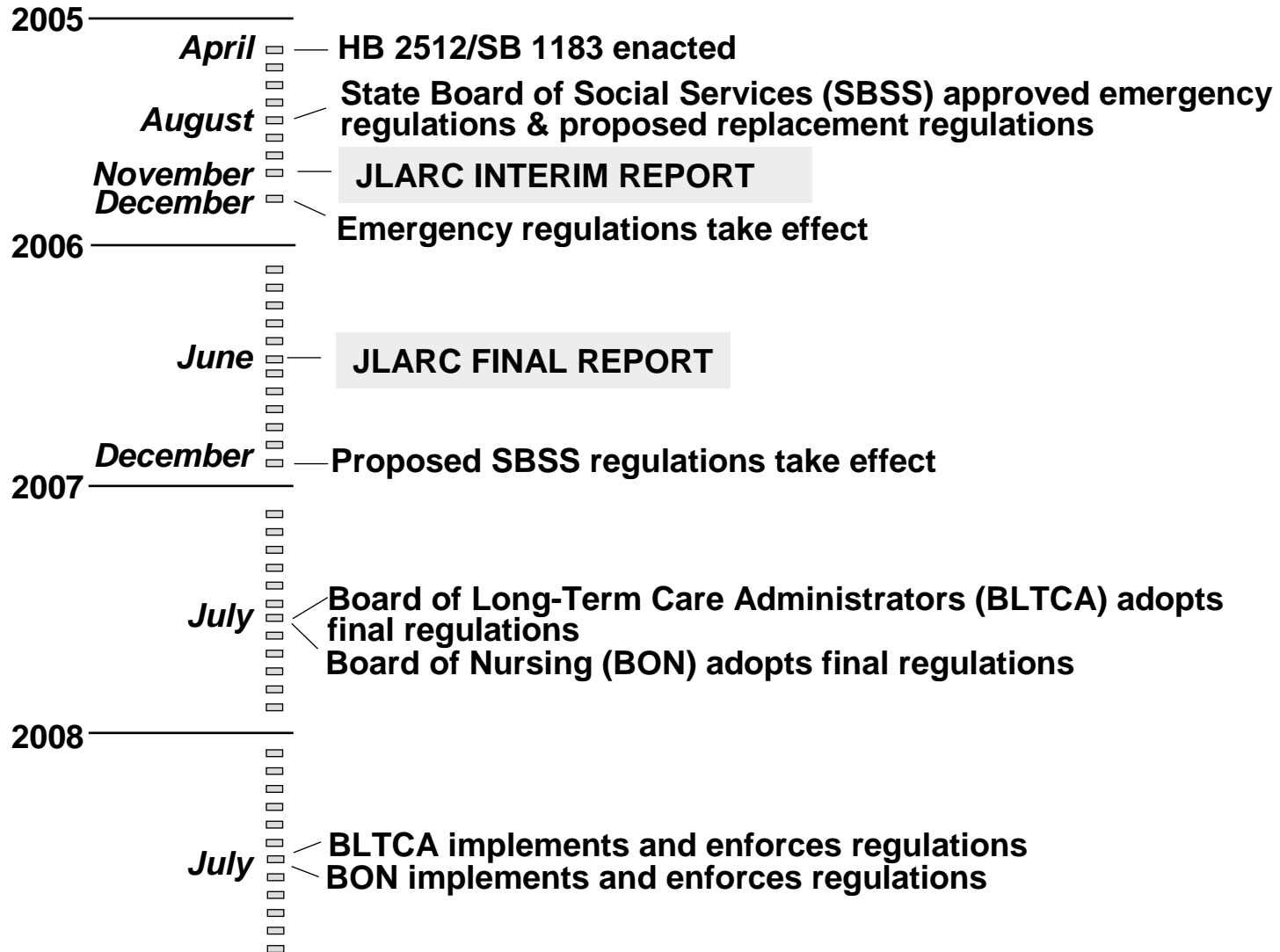
■ Auxiliary grant monthly rate increased to \$944

Agency Implementation

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- **Emergency regulations adopted by Board of Social Services, to take effect December 28, 2005**
 - Permanent replacement regulations planned for December 2006
- **DSS now training staff on new law and regulations**
- **DHP and Board of Long-Term Care Administrators developing curriculum and criteria for assisted living administrator license**
- **DHP and Board of Nursing developing criteria for registered medication aides**

Projected Implementation Timeline



Staff Analysis

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- **Staff is currently developing workplan**
- **Current timeline calls for final JLARC report before the permanent regulations are implemented in December 2006, and before licensing requirements take effect in July 2007**
- **Consequently, staff cannot provide complete assessment of the impact of 2005 legislation by currently mandated date of June 2006**
- **If the General Assembly wants JLARC staff assessment of regulatory impact, the time frame should be extended**

Recommendation

The General Assembly may wish to extend the deadline for the final report because key provisions of the new law will not take effect until after the current deadline of June 2006.

Staff Report

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- Full JLARC Staff Interim Report is available on the website:
 - <http://jlarc.state.va.us>