

ASSISTED LIVING FACILITIES

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: Mike Dmitrich

AN ACT RELATING TO HEALTH; COMBINING ASSISTED LIVING FACILITIES AND RESIDENTIAL ASSISTED LIVING FACILITIES INTO A SINGLE CATEGORY OF ASSISTED LIVING FACILITIES; MAKING TECHNICAL AND CONFORMING AMENDMENTS; AND PROVIDING AN EFFECTIVE DATE.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

26-20-10, as enacted by Chapter 126, Laws of Utah 1981

26-21-2, as last amended by Chapter 209, Laws of Utah 1997

53-7-204, as renumbered and amended by Chapters 101 and 234, Laws of Utah 1993

62A-3-202, as last amended by Chapter 209, Laws of Utah 1997

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **26-20-10** is amended to read:

26-20-10. Revocation of license of assisted living facility -- Appointment of receiver.

(1) If the license of [~~a residential health care~~] an assisted living facility is revoked for violation of this chapter, the county attorney may file a petition with the district court for the county in which the facility is located for the appointment of a receiver.

(2) The district court shall issue an order to show cause why a receiver should not be appointed returnable within five days after the filing of the petition.

(3) If the court finds that the facts warrant the granting of the petition, the court shall appoint a receiver to take charge of the facility. The court may determine fair compensation for the receiver.

(4) A receiver appointed pursuant to this section shall have the powers and duties prescribed by the court.

Section 2. Section **26-21-2** is amended to read:

26-21-2. Definitions.

As used in this chapter:

(1) "Abortion clinic" means a facility, other than a general acute or specialty hospital, that performs abortions and provides abortion services during the second trimester of pregnancy.

(2) "Activities of daily living" means essential activities including:

- (a) dressing;
- (b) eating;
- (c) grooming;
- (d) bathing;
- (e) toileting;
- (f) ambulation;
- (g) transferring; and
- (h) self-administration of medication.

(3) "Ambulatory surgical facility" means a freestanding facility, which provides surgical services to patients not requiring hospitalization.

(4) "Assistance with activities of daily living" means providing of or arranging for the provision of assistance with activities of daily living.

(5) (a) "Assisted living facility" means:

(i) a type I assisted living facility, which is a residential facility that provides assistance with activities of daily living and social care to two or more residents who:

(A) require protected living arrangements; and

(B) are capable of achieving mobility sufficient to exit the facility without the assistance of another person; and

(ii) a type II assisted living facility, which is a residential facility with a home-like setting that provides an array of coordinated supportive personal and health care services[;] available 24 hours per day[;] to residents who have been assessed under [division] department rule to need any of these services.

(b) Each resident in a type I or type II assisted living facility shall have a service plan based on the assessment, which may include:

- (a) specified services of intermittent nursing care;
 - (b) administration of medication; and
 - (c) support services promoting residents' independence and self sufficiency.
- (6) "Birthing center" means a freestanding facility, receiving maternal clients and providing care during pregnancy, delivery, and immediately after delivery.
- (7) "Committee" means the Health Facility Committee created in Section 26-1-7.
- (8) "Consumer" means any person not primarily engaged in the provision of health care to individuals or in the administration of facilities or institutions in which such care is provided and who does not hold a fiduciary position, or have a fiduciary interest in any entity involved in the provision of health care, and does not receive, either directly or through his spouse, more than 1/10 of his gross income from any entity or activity relating to health care.
- (9) "End stage renal disease facility" means a facility which furnishes staff-assisted kidney dialysis services, self-dialysis services, or home-dialysis services on an outpatient basis.
- (10) "Freestanding" means existing independently or physically separated from another health care facility by fire walls and doors and administrated by separate staff with separate records.
- (11) "General acute hospital" means a facility which provides diagnostic, therapeutic, and rehabilitative services to both inpatients and outpatients by or under the supervision of physicians.
- (12) "Governmental unit" means the state, or any county, municipality, or other political subdivision or any department, division, board, or agency of the state, a county, municipality, or other political subdivision.
- (13) (a) "Health care facility" means general acute hospitals, specialty hospitals, home health agencies, hospices, nursing care facilities, residential-assisted living facilities, birthing centers, ambulatory surgical facilities, small health care facilities, abortion clinics, facilities owned or operated by health maintenance organizations, end stage renal disease facilities, and any other health care facility which the committee designates by rule.
- (b) "Health care facility" does not include the offices of private physicians or dentists, whether for individual or group practice.
- (14) "Health maintenance organization" means an organization, organized under the laws

of any state which:

(a) is a qualified health maintenance organization under Section 1310 (d) of the Public Health Service Act; or

(b) (i) provides or otherwise makes available to enrolled participants at least the following basic health care services: usual physician services, hospitalization, laboratory, x-ray, emergency, and preventive services and out-of-area coverage;

(ii) is compensated, except for copayments, for the provision of the basic health services listed in Subsection (14)(b)(i) to enrolled participants by a payment which is paid on a periodic basis without regard to the date the health services are provided and which is fixed without regard to the frequency, extent, or kind of health services actually provided; and

(iii) provides physicians' services primarily directly through physicians who are either employees or partners of such organizations, or through arrangements with individual physicians or one or more groups of physicians organized on a group practice or individual practice basis.

(15) (a) "Home health agency" means an agency, organization, or facility or a subdivision of an agency, organization, or facility which employs two or more direct care staff persons who provide licensed nursing services, therapeutic services of physical therapy, speech therapy, occupational therapy, medical social services, or home health aide services on a visiting basis.

(b) "Home health agency" does not mean an individual who provides services under the authority of a private license.

(16) "Hospice" means a program of care for the terminally ill and their families which occurs in a home or in a health care facility and which provides medical, palliative, psychological, spiritual, and supportive care and treatment.

(17) "Nursing care facility" means a health care facility, other than a general acute or specialty hospital, constructed, licensed, and operated to provide patient living accommodations, 24-hour staff availability, and at least two of the following patient services:

(a) a selection of patient care services, under the direction and supervision of a registered nurse, ranging from continuous medical, skilled nursing, psychological, or other professional therapies to intermittent health-related or paraprofessional personal care services;

(b) a structured, supportive social living environment based on a professionally designed and supervised treatment plan, oriented to the individual's habilitation or rehabilitation needs; or

(c) a supervised living environment that provides support, training, or assistance with individual activities of daily living.

(18) "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, and the legal successor thereof.

(19) "Resident" means a person 21 years of age or older who:

(a) as a result of physical or mental limitations or age requires or requests services provided in a ~~[residential health care facility or]~~ assisted living facility; and

(b) does not require intensive medical or nursing services as provided in a hospital or nursing care facility.

~~[(20) "Residential health care facility" means a facility providing assistance with activities of daily living and social care to two or more residents who require protected living arrangements.]~~

~~[(21)]~~ (20) "Small health care facility" means a four to sixteen bed facility that provides licensed health care programs and services to residents who generally do not need continuous nursing care or supervision.

~~[(22)]~~ (21) "Specialty hospital" means a facility which provides specialized diagnostic, therapeutic, or rehabilitative services in the recognized specialty or specialties for which the hospital is licensed.

~~[(23)]~~ (22) "Substantial compliance" means in a department survey of a licensee, the department determines there is an absence of deficiencies which would harm the physical health, mental health, safety, or welfare of patients or residents of a licensee.

Section 3. Section **53-7-204** is amended to read:

53-7-204. Duties of Utah Fire Prevention Board -- Local administrative duties.

(1) The board shall:

(a) make rules:

(i) adopting the specific edition of the Uniform Fire Code to be used as the standard;

(ii) establishing minimum standards for the prevention of fire and for the protection of life

and property against fire and panic in any:

(A) publicly owned building, including all public and private schools, colleges, and university buildings;

(B) building or structure used or intended for use as an asylum, a mental hospital, a hospital, a sanitarium, a home for the aged, [~~a residential health-care~~] an assisted living facility, a children's home or institution, or any similar institutional type occupancy of any capacity; and

(C) place of assemblage where 50 or more persons may gather together in a building, structure, tent, or room for the purpose of amusement, entertainment, instruction, or education;

(iii) establishing safety and other requirements for placement and discharge of display fireworks based upon:

(A) the specific edition of the Uniform Fire Code selected under Subsection (1)(a)(i); and

(B) relevant publications of the National Fire Protection Association;

(iv) establishing minimum safety standards for retail storage, handling, and sale of class C common state approved explosives;

(v) defining methods to establish proof of competence to place and discharge display fireworks;

(vi) for deputizing qualified persons to act as deputy fire marshals, and to secure special services in emergencies;

(vii) implementing Sections 53-7-106 and 53-7-205;

(viii) setting guidelines for use of funding; and

(ix) establishing criteria for training and safety equipment grants for fire departments enrolled in firefighter certification;

(b) recommend to the commissioner a state fire marshal;

(c) develop policies under which the state fire marshal and his authorized representatives will perform;

(d) provide for the employment of field assistants and other salaried personnel as required;

(e) prescribe the duties of the state fire marshal and his authorized representatives;

(f) establish a statewide fire prevention, fire education, and fire service training program in

cooperation with the Board of Regents;

(g) establish a statewide fire statistics program for the purpose of gathering fire data from all political subdivisions of the state;

(h) establish a fire academy in accordance with Section 53-7-204.2;

(i) coordinate the efforts of all people engaged in fire suppression in the state;

(j) work aggressively with the local political subdivisions to reduce fire losses; and

(k) regulate the sale and servicing of portable fire extinguishers and automatic fire suppression systems in the interest of safeguarding lives and property.

(2) The board may incorporate in its rules by reference, in whole or in part, nationally recognized and readily available standards and codes pertaining to the protection of life and property from fire, explosion, or panic.

(3) (a) The board may only make amendments to the Uniform Fire Code adopted under Subsection (1)(a)(i) in accordance with Section 53-7-205.

(b) The amendments may be applicable to the entire state or within a city, county, or fire protection district.

(4) The following functions shall be administered locally by a city, county, or fire protection district:

(a) issuing permits, including open burning permits pursuant to Sections 11-7-1 and 19-2-114;

(b) creating a local board of appeals in accordance with Section 2.303 of the Uniform Fire Code; and

(c) establishing, modifying, or deleting fire flow and water supply requirements.

Section 4. Section **62A-3-202** is amended to read:

62A-3-202. Definitions.

As used in this part:

(1) "Elderly resident" means an adult 60 years of age or older who because of physical, economic, social, or emotional problems cannot function normally on an independent basis, and who resides in a long-term care facility.

(2) "Government agency" means any department, division, office, bureau, board, commission, authority, or any other agency or instrumentality created by the state, or to which the state is a party, or created by any county or municipality, which is responsible for the regulation, visitation, inspection, or supervision of facilities, or which provides services to patients, residents, or clients of facilities.

(3) "Long-term care facility" means any skilled nursing facility, intermediate care facility, nursing home, [~~residential health care facility,~~] assisted living facility, adult foster care home, or any living arrangement in the community through which room and personal care services are provided for elderly residents.

(4) "Ombudsman" means the administrator of the long-term care ombudsman program, created pursuant to Section 62A-3-203.

Section 5. Effective date.

This act takes effect on July 1, 1998.