

1                   **LONG-TERM CARE PATIENT AND CONSUMER RIGHTS**  
2                                   **PROTECTION**

3                                   2021 GENERAL SESSION

4                                   STATE OF UTAH

5                                   **Chief Sponsor: Melissa G. Ballard**

6                                   Senate Sponsor: Wayne A. Harper

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8 **LONG TITLE**

9 **General Description:**

10           This bill regulates assisted living and nursing home facilities.

11 **Highlighted Provisions:**

12           This bill:

- 13           ▶ defines terms;
- 14           ▶ requires a facility to make disclosures; and
- 15           ▶ creates a penalty.

16 **Money Appropriated in this Bill:**

17           None

18 **Other Special Clauses:**

19           None

20 **Utah Code Sections Affected:**

21 ENACTS:

22           **26-21-35**, Utah Code Annotated 1953

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

25           Section 1. Section **26-21-35** is enacted to read:

26           **26-21-35. Resident Consumer Protection.**

27           (1) As used in this section:



28 (a) "Eligible requester" means:

29 (i) a resident;

30 (ii) a prospective resident;

31 (iii) a legal representative of a resident or prospective resident; or

32 (iv) the department.

33 (b) "Facility" means an assisted living facility or nursing care facility.

34 (c) "Facility's leadership" means a facility's:

35 (i) owner;

36 (ii) administrator;

37 (iii) director; or

38 (iv) employee that is in a position to determine which providers have access to the  
39 facility.

39a Ĥ→ (d) "Health care provider" means the same as that term is defined in

39b Section 78B-3-403. ←Ĥ

40 Ĥ→ [~~(d)~~] (e) ←Ĥ "Personal care agency" means a person that provides assistance with  
40a activities of

41 daily living.

42 Ĥ→ [~~(e)~~] (f) ←Ĥ "Provider" means a home health agency, hospice provider, Ĥ→ [~~medical~~  
42a provider,] health care provider, ←Ĥ or

43 personal care agency.

44 Ĥ→ [~~(f)~~] (g) ←Ĥ "Resident" means an individual who resides in a facility.

45 (2) Subject to Ĥ→ Subsection (4) and ←Ĥ other state or federal laws, a facility may limit  
45a which providers have

46 access to the facility if the facility complies with Subsection (3).

47 (3) (a) A facility that prohibits a provider from accessing the facility shall:

48 (i) before or at the time a prospective resident or prospective resident's legal

49 representative signs an admission contract, inform the prospective resident or prospective

50 resident's legal representative that the facility prohibits one or more providers from accessing

51 the facility;

52 (ii) if an eligible requester requests to know which providers have access to the facility,  
53 refer the eligible requester to a member of the facility's leadership; and

54 (iii) if a provider requests to know whether the provider has access to the facility, refer  
55 the provider to a member of the facility's leadership.

56 (b) If a facility refers an eligible requester to a member of the facility's leadership under  
57 Subsection (3)(a)(ii), the member of the facility's leadership shall inform the eligible requester:

58 (i) which providers the facility;

59           (A) allows to access the facility; or  
 60           (B) prohibits from accessing the facility;  
 61           (ii) that a provider's access to the facility may change at any time; and  
 62           (iii) whether a person in the facility's leadership has a legal or financial interest in a  
 63 provider that is allowed to access the facility.

64           (c) If a facility refers a provider to a member of the facility's leadership under  
 65 Subsection (3)(a)(iii), the member of the facility's leadership:

66           (i) shall disclose whether the provider has access to the facility; and  
 67           (ii) may disclose any other information described in Subsection (3)(b).

68           (d) If a resident is being served by a provider that is later prohibited from accessing the  
 69 facility, the facility shall:

70           (i) allow the provider access to the facility to finish the resident's current episode of  
 71 care; or

72           (ii) provide to the resident a written explanation of why the provider no longer has  
 73 access to the facility.

73a           ~~Ĥ~~→ **(4) If a resident is responsible for the costs related to the services provided by a**  
 73b **health care provider, a facility may not prevent the health care provider from accessing the**  
 73c **facility.** ←Ĥ

74           ~~Ĥ~~→ ~~[(4)]~~ **(5)** ←Ĥ This section does not apply to a facility operated by a government unit.

75           ~~Ĥ~~→ ~~[(5)]~~ **(6)** ←Ĥ The department may issue a notice of deficiency if a facility that denies a  
 75a provider  
 76 access under Subsection (2) does not comply with Subsection (3) at the time of the denial.