

LONG TERM CARE OMBUDSMAN AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill amends requirements relating to assisted living facilities.

Highlighted Provisions:

This bill:

- ▶ amends requirements for certain facility-initiated transfers or discharges of a resident;
- ▶ removes a sunset date; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-21-305, as enacted by Laws of Utah 2018, Chapter 220

62A-3-209, as enacted by Laws of Utah 2018, Chapter 220

63I-1-262, as last amended by Laws of Utah 2022, Chapters 34, 35, 149, 257, and 335

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

Section 1. Section **26-21-305** is amended to read:

26-21-305. Requirements for facility-initiated transfer or discharge.

(1) A facility is subject to the requirements in Subsection (2) if the transfer or discharge:

(a) is initiated by the facility for any reason;

(b) is objected to by the resident or the resident's responsible person;

(c) was not initiated by a verbal or written request from the resident; or

(d) is inconsistent with the resident's preferences and stated goals for care.

33 ~~(2)~~ [~~When a facility initiates the~~] Before a transfer or discharge [~~of a resident~~]
34 described in Subsection (1) occurs, the facility from which the resident is transferred or
35 discharged shall:

36 ~~(1)~~ (a) notify the resident and the resident's responsible person, if any, in writing and
37 in a language and a manner that is most likely to be understood by the resident and the
38 resident's responsible person, of:

39 ~~(a)~~ (i) the reasons for the transfer or discharge;

40 ~~(b)~~ (ii) the effective date of the transfer or discharge;

41 ~~(c)~~ (iii) the location to which the resident will be transferred or discharged, if known;

42 and

43 ~~(d)~~ (iv) the name, address, email, and telephone number of the ombudsman;

44 ~~(2)~~ (b) send a copy, in English, of the notice described in Subsection ~~(1)(a)~~ (2)(a) to
45 the ombudsman on the same day on which the facility delivers the notice described in
46 Subsection ~~(1)(a)~~ (2)(a) to the resident and the resident's responsible person;

47 ~~(3)~~ (c) provide the notice described in Subsection ~~(1)(a)~~ (2)(a) at least 30 days
48 before the day on which the resident is transferred or discharged, unless:

49 ~~(a)~~ (i) notice for a shorter period of time is necessary to protect:

50 ~~(1)~~ (A) the safety of individuals in the facility from endangerment due to the medical
51 or behavioral status of the resident; or

52 ~~(1)~~ (B) the health of individuals in the facility from endangerment due to the
53 resident's continued residency;

54 ~~(b)~~ (ii) an immediate transfer or discharge is required by the resident's urgent medical
55 needs; or

56 ~~(c)~~ (iii) the resident has not resided in the facility for at least 30 days;

57 ~~(4)~~ (d) update the transfer or discharge notice as soon as practicable before the
58 transfer or discharge if information in the notice changes before the transfer or discharge;

59 ~~(5)~~ (e) orally explain to the resident:

60 ~~(a)~~ (i) the services available through the ombudsman; and

61 ~~(b)~~ (ii) the contact information for the ombudsman; and

62 ~~(6)~~ (f) provide and document the provision of preparation and orientation for the
63 resident, in a language and manner the resident is most likely to understand, [~~for a resident~~] to

64 ensure a safe and orderly transfer or discharge from the facility[; and].

65 [~~(7)~~] (3) [in] In the event of a facility closure, the facility shall provide written
66 notification of the closure to the ombudsman, each resident of the facility, and each resident's
67 responsible person.

68 Section 2. Section **62A-3-209** is amended to read:

69 **62A-3-209. Assisted living facility transfers.**

70 (1) After the ombudsman receives a notice described in Subsection [~~26-21-305(1)(a)~~]
71 26-21-305(2)(b), the ombudsman shall:

72 (a) review the notice; and

73 (b) contact the resident or the resident's responsible person to conduct a voluntary
74 interview.

75 (2) The voluntary interview described in Subsection (1)(b) shall:

76 (a) provide the resident with information about the services available through the
77 ombudsman;

78 (b) confirm the details in the notice described in Subsection [~~26-21-305(1)(a)~~]
79 26-21-305(2)(b), including:

80 (i) the name of the resident;

81 (ii) the reason for the transfer or discharge;

82 (iii) the date of the transfer or discharge; and

83 (iv) a description of the resident's next living arrangement; and

84 (c) provide the resident an opportunity to discuss any concerns or complaints the
85 resident may have regarding:

86 (i) the resident's treatment at the assisted living facility; and

87 (ii) whether the assisted living facility treated the resident fairly when the assisted
88 living facility transferred or discharged the resident.

89 (3) On or before November 1 of each year, the ombudsman shall provide a report to the
90 Health and Human Services Interim Committee regarding:

91 (a) the reasons why assisted living facilities are transferring residents;

92 (b) where residents are going upon transfer or discharge; and

93 (c) the type and prevalence of complaints that the ombudsman receives regarding

94 assisted living facilities, including complaints about the process or reasons for a transfer or

95 discharge.

96 Section 3. Section **63I-1-262** is amended to read:

97 **63I-1-262. Repeal dates: Title 62A.**

98 [~~(1) Section 62A-3-209 is repealed July 1, 2023.~~]

99 [~~(2)~~ (1) Sections 62A-5a-101, 62A-5a-102, 62A-5a-103, and 62A-5a-104, which
100 create the Coordinating Council for Persons with Disabilities, are repealed July 1, 2027.

101 [~~(3)~~ (2) Subsections 62A-15-116(1) and (5), the language that states "In consultation
102 with the Behavioral Health Crisis Response Commission, established in Section 63C-18-202,"
103 is repealed January 1, 2023.

104 [~~(4)~~ (3) Section 62A-15-118 is repealed December 31, 2023.

105 [~~(5)~~ (4) Section 62A-15-124 is repealed December 31, 2024.

106 [~~(6)~~ (5) Section 62A-15-605, which creates the Forensic Mental Health Coordinating
107 Council, is repealed July 1, 2023.

108 [~~(7)~~ (6) Subsections 62A-15-1100(1) and 62A-15-1101(9), in relation to the Utah
109 Substance Use and Mental Health Advisory Council, are repealed January 1, 2033.

110 [~~(8)~~ (7) In relation to the Behavioral Health Crisis Response Commission, on July 1,
111 2023:

112 (a) Subsections 62A-15-1301(2) and 62A-15-1401(1) are repealed;

113 (b) Subsection 62A-15-1302(1)(b), the language that states "and in consultation with
114 the commission" is repealed;

115 (c) Subsection 62A-15-1303(1), the language that states "In consultation with the
116 commission," is repealed;

117 (d) Subsection 62A-15-1402(2)(a), the language that states "With recommendations
118 from the commission," is repealed; and

119 (e) Subsection 62A-15-1702(6) is repealed.