

1 **ASSISTED LIVING FACILITIES AMENDMENTS**

2 2018 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Karen Kwan**

5 Senate Sponsor: Curtis S. Bramble

6	Cosponsors:	Sandra Hollins	Mike Schultz
7	Patrice M. Arent	Brian S. King	Elizabeth Weight
8	Joel K. Briscoe	Derrin R. Owens	Mark A. Wheatley
9	Rebecca Chavez-Houck	Val K. Potter	Brad R. Wilson
10	Kim F. Coleman	Marie H. Poulson	
11	Susan Duckworth	Tim Quinn	

Gage Froerer

12

13 **LONG TITLE**

14 **General Description:**

15 This bill enacts provisions related to the transfer or discharge of a resident from an
16 assisted living facility.

17 **Highlighted Provisions:**

18 This bill:

- 19 ▶ renames a part;
- 20 ▶ provides notice requirements when an assisted living facility transfers or discharges
21 a resident;
- 22 ▶ requires the ombudsman to gather information regarding assisted living facility
23 transfers or discharges and annually report that information to the Health and
24 Human Services Interim Committee; and
- 25 ▶ makes technical changes.

26 **Money Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **26-21-301**, as enacted by Laws of Utah 2016, Chapter 141

33 **26-21-302**, as enacted by Laws of Utah 2016, Chapter 141

34 **63I-1-262**, as last amended by Laws of Utah 2017, Chapter 459

35 ENACTS:

36 **26-21-305**, Utah Code Annotated 1953

37 **62A-3-209**, Utah Code Annotated 1953



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

40 Section 1. Section **26-21-301** is amended to read:

41 **Part 3. Assisted Living Facilities**

42 **26-21-301. Title.**

43 This part is known as ~~[the]~~ "Assisted Living ~~[Facility Surveillance Act]~~ Facilities."

44 Section 2. Section **26-21-302** is amended to read:

45 **26-21-302. Definitions.**

46 As used in this part:

47 (1) "Facility" means an assisted living facility.

48 (2) "Legal representative" means an individual who is legally authorized to make
49 health care decisions on behalf of another individual.

50 (3) (a) "Monitoring device" means:

51 (i) a video surveillance camera; or

52 (ii) a microphone or other device that captures audio.

53 (b) "Monitoring device" does not include:

54 (i) a device that is specifically intended to intercept wire, electronic, or oral
55 communication without notice to or the consent of a party to the communication; or

56 (ii) a device that is connected to the Internet or that is set up to transmit data via an
57 electronic communication.

58 (4) "Ombudsman" means the same as that term is defined in Section [62A-3-202](#).

59 [~~4~~] (5) "Resident" means an individual who receives health care from a facility.

60 (6) "Responsible person" means an individual who:

61 (a) is designated in writing by a resident to receive communication on behalf of the
62 resident; or

63 (b) a legal representative.

64 [~~5~~] (7) "Room" means a resident's private or shared primary living space.

65 [~~6~~] (8) "Roommate" means an individual sharing a room with a resident.

66 Section 3. Section **26-21-305** is enacted to read:

67 **26-21-305. Transfer or discharge.**

68 When a facility initiates the transfer or discharge of a resident, the facility shall:

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

72 (a) the reasons for the transfer or discharge;

73 (b) the effective date of the transfer or discharge;

74 (c) the location to which the resident will be transferred or discharged, if known; and

75 (d) the name, address, email, and telephone number of the ombudsman;

76 (2) send a copy, in English, of the notice described in Subsection (1)(a) to the
77 ombudsman on the same day on which the facility delivers the notice described in Subsection
78 (1)(a) to the resident and the resident's responsible person;

79 (3) provide the notice described in Subsection (1)(a) at least 30 days before the day on
80 which the resident is transferred or discharged, unless:

81 (a) notice for a shorter period of time is necessary to protect:

82 (i) the safety of individuals in the facility from endangerment due to the medical or
83 behavioral status of the resident; or

84 (ii) the health of individuals in the facility from endangerment due to the resident's
85 continued residency;

86 (b) an immediate transfer or discharge is required by the resident's urgent medical
87 needs; or

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

89 (4) update the transfer or discharge notice as soon as practicable before the transfer or
90 discharge if information in the notice changes before the transfer or discharge;

91 (5) orally explain to the resident:

92 (a) the services available through the ombudsman; and

93 (b) the contact information for the ombudsman;

94 (6) provide and document the provision of preparation and orientation, in a language
95 and manner the resident is most likely to understand, for a resident to ensure a safe and orderly
96 transfer or discharge from the facility; and

97 (7) in the event of a facility closure, provide written notification of the closure to the
98 ombudsman, each resident of the facility, and each resident's responsible person.

99 Section 4. Section **62A-3-209** is enacted to read:

100 **62A-3-209. Assisted living facility transfers.**

101 (1) After the ombudsman receives a notice described in Subsection [26-21-305\(1\)\(a\)](#),
102 the ombudsman shall:

103 (a) review the notice; and

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

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

107 (a) provide the resident with information about the services available through the
108 ombudsman;

109 (b) confirm the details in the notice described in Subsection [26-21-305\(1\)\(a\)](#),
110 including:

111 (i) the name of the resident;

- 112 (ii) the reason for the transfer or discharge;
- 113 (iii) the date of the transfer or discharge; and
- 114 (iv) a description of the resident's next living arrangement; and
- 115 (c) provide the resident an opportunity to discuss any concerns or complaints the
- 116 resident may have regarding:
 - 117 (i) the resident's treatment at the assisted living facility; and
 - 118 (ii) whether the assisted living facility treated the resident fairly when the assisted
 - 119 living facility transferred or discharged the resident.
- 120 (3) On or before November 1 of each year, the ombudsman shall provide a report to the
- 121 Health and Human Services Interim Committee regarding:
 - 122 (a) the reasons why assisted living facilities are transferring residents;
 - 123 (b) where residents are going upon transfer or discharge; and
 - 124 (c) the type and prevalence of complaints that the ombudsman receives regarding
 - 125 assisted living facilities, including complaints about the process or reasons for a transfer or
 - 126 discharge.

127 Section 5. Section **63I-1-262** is amended to read:

128 **63I-1-262. Repeal dates, Title 62A.**

- 129 (1) Section [62A-3-209](#) is repealed July 1, 2023.
- 130 ~~[(1)]~~ (2) Section [62A-4a-213](#) is repealed July 1, 2019.
- 131 ~~[(2)]~~ (3) Section [62A-4a-202.9](#) is repealed December 31, 2019.
- 132 ~~[(3)]~~ (4) Subsection [62A-15-1101](#)(5) is repealed July 1, 2018.