

28 [26-21-301](#), as enacted by Laws of Utah 2016, Chapter 141

29 [26-21-302](#), as enacted by Laws of Utah 2016, Chapter 141

30 ENACTS:

31 [26-21-305](#), Utah Code Annotated 1953



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

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

35 **Part 3. Assisted Living Facilities**

36 **26-21-301. Title.**

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

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

39 **26-21-302. Definitions.**

40 As used in this part:

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

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

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

45 (i) a video surveillance camera; or

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

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

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

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

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

53 ~~[(4)]~~ (5) "Resident" means an individual who receives health care from a facility.

54 ~~[(5)]~~ (6) "Room" means a resident's private or shared primary living space.

55 ~~[(6)]~~ (7) "Roommate" means an individual sharing a room with a resident.

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

57 **26-21-305. Transfer or discharge.**

58 (1) A facility shall permit each resident to remain in the facility, and not transfer or

59 discharge the resident from the facility, unless:

60 (a) the transfer or discharge is necessary for the resident's welfare and the resident's
61 needs cannot be met in the facility;

62 (b) the safety of individuals in the facility is endangered due to the clinical or
63 behavioral status of the resident;

64 (c) the health of individuals in the facility would otherwise be endangered;

65 (d) the facility ceases to operate; or

66 (e) the resident has failed, after reasonable and appropriate notice, to pay for, or to have
67 a responsible third party pay for, a stay at the facility.

68 (2) A facility may transfer or discharge a resident under Subsection (1)(e) if the
69 resident does not submit the necessary paperwork for third party payment or after the third
70 party, denies the claim and the resident refuses to pay for the stay.

71 (3) Before a facility transfers or discharges a resident, the facility shall:

72 (a) notify the resident and the resident's legal representative, if any, in writing and in a
73 language and a manner that is most likely to be understood by the resident and the resident's
74 legal representative, of:

75 (i) the reasons for the transfer or discharge;

76 (ii) the effective date of the transfer or discharge;

77 (iii) the location to which the resident will be transferred or discharged; and

78 (iv) the name, address, email, and telephone number of the ombudsman;

79 (b) send a copy, in English, of the notice described in Subsection (3)(a) to the
80 ombudsman within three days after the day on which the facility delivers the notice described
81 in Subsection (3)(a) to the resident or the resident's legal representative;

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

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

85 (A) the safety of individuals in the facility from endangerment due to the medical or
86 behavioral status of the resident; or

87 (B) the health of individuals in the facility from endangerment due to the resident's
88 continued residency;

89 (ii) an immediate transfer or discharge is required by the resident's urgent medical

90 needs; or
91 (iii) the resident has not resided in the facility for at least 30 days;
92 (d) update the transfer or discharge notice as soon as practicable before the transfer or
93 discharge if information in the notice changes before the transfer or discharge;
94 (e) 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 (f) 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 legal representative, if any.
99 (4) When a facility transfers or discharges a resident under the circumstances described
100 in Subsection (1), the facility shall ensure that:
101 (a) the transfer or discharge is documented in the resident's medical record, which
102 shall:
103 (i) indicate the basis for the transfer or discharge;
104 (ii) specify any needs that the resident has that the facility cannot meet, including
105 attempts by the facility to meet the need and the availability of a service at the receiving facility
106 that will meet the need; and
107 (iii) be made by a licensed health care professional, if transfer or discharge occurs
108 under Subsections (1)(a) through (c); and
109 (b) the following information is communicated to the receiving health care provider:
110 (i) contact information of the practitioner responsible for the resident's care;
111 (ii) information regarding the resident's legal representative, if any, including contact
112 information;
113 (iii) advance health care directive information, if any;
114 (iv) special instructions or precautions for ongoing care, as appropriate;
115 (v) the resident's service plan; and
116 (vi) all other necessary information required by law or otherwise necessary to ensure a
117 safe and effective transition of care.