

HB0263S01 compared with HB0263

~~{deleted text}~~ shows text that was in HB0263 but was deleted in HB0263S01.

Inserted text shows text that was not in HB0263 but was inserted into HB0263S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Karen Kwan proposes the following substitute bill:

ASSISTED LIVING FACILITIES AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karen Kwan

Senate Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ renames a part;
- ~~{~~ → limits the reasons for which an assisted living facility may transfer or discharge a resident;
- ~~}~~ ▶ provides notice requirements when an assisted living facility transfers or discharges a resident;
- ▶ requires ~~{an}~~ the ombudsman to gather information regarding assisted living facility ~~{to document the reason for transferring}~~ transfers or ~~{discharging a~~

HB0263S01 compared with HB0263

~~resident}~~discharges and ~~{communicate certain}~~annually report that information to ~~{a receiving health care provider, if any}~~the Health and Human Services Interim Committee; and

- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

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

ENACTS:

26-21-305, Utah Code Annotated 1953

62A-3-209, Utah Code Annotated 1953

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

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

Part 3. Assisted Living Facilities

26-21-301. Title.

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

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

26-21-302. Definitions.

As used in this part:

- (1) "Facility" means an assisted living facility.
- (2) "Legal representative" means an individual who is legally authorized to make health care decisions on behalf of another individual.

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

- (i) a video surveillance camera; or
- (ii) a microphone or other device that captures audio.

HB0263S01 compared with HB0263

(b) "Monitoring device" does not include:

- (i) a device that is specifically intended to intercept wire, electronic, or oral communication without notice to or the consent of a party to the communication; or
- (ii) a device that is connected to the Internet or that is set up to transmit data via an electronic communication.

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

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

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

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

(b) a legal representative.

~~[(5)]~~ ~~[(6)]~~ (7) "Room" means a resident's private or shared primary living space.

~~[(6)]~~ ~~[(7)]~~ (8) "Roommate" means an individual sharing a room with a resident.

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

26-21-305. Transfer or discharge.

~~[(1) A] When a facility shall permit each resident to remain in the facility, and not transfer or discharge the resident from the facility, unless:~~

~~—— (a) initiates the transfer or discharge {is necessary for the resident's welfare and the resident's needs cannot be met in the facility};~~

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

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

~~—— (d) the facility ceases to operate; or~~

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

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

~~—— (3) Before a facility transfers or discharges} of a resident, the facility shall:~~

~~[(a) 1] notify the resident and the resident's {legal representative} responsible person, if any, in writing and in a language and a manner that is most likely to be understood by the~~

HB0263S01 compared with HB0263

resident and the resident's ~~legal representative~~ responsible person, of:

~~(fi)a~~ the reasons for the transfer or discharge;

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

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

and

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

~~(fb)2~~ send a copy, in English, of the notice described in Subsection ~~(f3)1~~(a) to the ombudsman ~~within three days after the~~ on the same day on which the facility delivers the notice described in Subsection ~~(f3)1~~(a) to the resident ~~for~~ and the resident's ~~legal representative~~ responsible person;

~~(fc)3~~ provide the notice described in Subsection ~~(f3)1~~(a) at least 30 days before the day on which the resident is transferred or discharged, unless:

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

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

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

~~(fiib)~~ an immediate transfer or discharge is required by the resident's urgent medical needs; or

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

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

(5) orally explain to the resident:

(a) the services available through the ombudsman; and

(b) the contact information for the ombudsman;

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

~~(ff)7~~ in the event of a facility closure, provide written notification of the closure to the ombudsman, each resident of the facility, and each resident's ~~legal representative, if any~~;

~~(4) When a~~ responsible person.

HB0263S01 compared with HB0263

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

62A-3-209. Assisted living facility transfers~~{ or discharges a resident under the circumstances}~~;

(1) After the ombudsman receives a notice described in Subsection 26-21-305(1)(a), the ombudsman shall:

(a) review the notice; and

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

(2) The voluntary interview described in Subsection (1)~~{, the facility shall ensure that:~~

~~— (a) the transfer or discharge is documented in the resident's medical record, which shall:~~

~~— (i) indicate the basis}~~(b) shall:

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

(b) confirm the details in the notice described in Subsection 26-21-305(1)(a), including:

(i) the name of the resident;

(ii) the reason for the transfer or discharge;~~f~~

~~— (ii) specify any needs that the resident has that the facility cannot meet, including attempts by the facility to meet the need and the availability of a service at the receiving facility that will meet the need; and~~

~~— (iii) be made by a licensed health care professional, if}~~

(iii) the date of the transfer or discharge~~{ occurs under Subsections (1)(a) through (c)}~~;

and

~~(f) the following information is communicated to the receiving health care provider:~~

~~— (i) contact information of the practitioner responsible for}~~(iv) a description of the resident's ~~care;~~

~~— (ii) information regarding the resident's legal representative, if any, including contact information;~~

~~— (iii) advance health care directive information, if any;~~

~~— (iv) special instructions or precautions for ongoing care, as appropriate;~~

HB0263S01 compared with HB0263

~~(v) next living arrangement; and~~

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

~~(i) the resident's service plan; and~~

~~(vi) all other necessary information required by law or otherwise necessary to ensure a safe and effective transition of care.~~

Legislative Review Note

~~Office of Legislative Research and General Counsel; treatment at the assisted living facility; and~~

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

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

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

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

~~(c) the type and prevalence of complaints that the ombudsman receives regarding assisted living facilities, including complaints about the process or reasons for a transfer or discharge; and~~

~~(d) recommendations regarding policy or legal changes that the state could make to improve outcomes for assisted living facility residents.~~

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

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

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

~~[(1)] (2) Section 62A-4a-213 is repealed July 1, 2019.~~

~~[(2)] (3) Section 62A-4a-202.9 is repealed December 31, 2019.~~

~~[(3)] (4) Subsection 62A-15-1101(5) is repealed July 1, 2018.~~

HB0263S01 compared with HB0263