

## HB0263S02 compared with HB0263S01

~~deleted text~~ shows text that was in HB0263S01 but was deleted in HB0263S02.

Inserted text shows text that was not in HB0263S01 but was inserted into HB0263S02.

**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: \_\_\_\_\_

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#### **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;
- ▶ provides notice requirements when an assisted living facility transfers or discharges a resident;
- ▶ requires the ombudsman to gather information regarding assisted living facility transfers or discharges and annually report that information to the Health and Human Services Interim Committee; and
- ▶ makes technical changes.

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### 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

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*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.

(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

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

~~[(6)]~~ (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.**

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

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

(a) the reasons for the transfer or discharge;

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

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

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

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

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

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

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

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

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

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

(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;

(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

(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 responsible person.

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

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

(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)(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;

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

(iv) a description of the resident's 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 treatment at the assisted living facility; and

(ii) whether the assisted living facility treated the resident fairly when the assisted

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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; ~~and~~

(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.