

1 **LONG TERM CARE OMBUDSMAN AMENDMENTS**

2 2023 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Steve Eliason**

5 Senate Sponsor: Luz Escamilla

7 **LONG TITLE**

8 **General Description:**

9 This bill amends requirements relating to assisted living facilities.

10 **Highlighted Provisions:**

11 This bill:

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

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **26-21-305**, as enacted by Laws of Utah 2018, Chapter 220

23 **62A-3-209**, as enacted by Laws of Utah 2018, Chapter 220

24 **63I-1-262**, as last amended by Laws of Utah 2022, Chapters 34, 35, 149, 257, and 335

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

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

28 **26-21-305. Requirements for facility-initiated transfer or discharge.**

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

30 discharge:

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

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

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

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

35 (2) [~~When a facility initiates the~~ Before a transfer or discharge [~~of a resident~~

36 described in Subsection (1) occurs, the facility from which the resident is transferred or

37 discharged shall:

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

41 [~~(a)~~] (i) the reasons for the transfer or discharge;

42 [~~(b)~~] (ii) the effective date of the transfer or discharge;

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

44 and

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

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

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

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

52 [~~(i)~~] (A) the safety of individuals in the facility from endangerment due to the medical
53 or behavioral status of the resident; or

54 [~~(ii)~~] (B) the health of individuals in the facility from endangerment due to the
55 resident's continued residency;

56 [~~(b)~~] (ii) an immediate transfer or discharge is required by the resident's urgent medical
57 needs; or

58 ~~[(e)]~~ (iii) the resident has not resided in the facility for at least 30 days;

59 ~~[(4)]~~ (d) update the transfer or discharge notice as soon as practicable before the

60 transfer or discharge if information in the notice changes before the transfer or discharge;

61 ~~[(5)]~~ (e) orally explain to the resident:

62 ~~[(a)]~~ (i) the services available through the ombudsman; and

63 ~~[(b)]~~ (ii) the contact information for the ombudsman; and

64 ~~[(6)]~~ (f) provide and document the provision of preparation and orientation for the

65 resident, in a language and manner the resident is most likely to understand, ~~[for a resident]~~ to

66 ensure a safe and orderly transfer or discharge from the facility~~[-and]~~.

67 ~~[(7)]~~ (3) ~~[in]~~ In the event of a facility closure, the facility shall provide written

68 notification of the closure to the ombudsman, each resident of the facility, and each resident's

69 responsible person.

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

71 **62A-3-209. Assisted living facility transfers.**

72 (1) After the ombudsman receives a notice described in Subsection ~~[26-21-305(1)(a)]~~

73 26-21-305(2)(b), the ombudsman shall:

- 74 (a) review the notice; and
- 75 (b) contact the resident or the resident's responsible person to conduct a voluntary
- 76 interview.

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

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

80 (b) confirm the details in the notice described in Subsection ~~[26-21-305(1)(a)]~~

81 26-21-305(2)(b), including:

- 82 (i) the name of the resident;
- 83 (ii) the reason for the transfer or discharge;
- 84 (iii) the date of the transfer or discharge; and
- 85 (iv) a description of the resident's next living arrangement; and

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

- 88 (i) the resident's treatment at the assisted living facility; and
- 89 (ii) whether the assisted living facility treated the resident fairly when the assisted
90 living facility transferred or discharged the resident.

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

- 93 (a) the reasons why assisted living facilities are transferring residents;
- 94 (b) where residents are going upon transfer or discharge; and
- 95 (c) the type and prevalence of complaints that the ombudsman receives regarding
96 assisted living facilities, including complaints about the process or reasons for a transfer or
97 discharge.

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

99 **63I-1-262. Repeal dates: Title 62A.**

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

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

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

106 [~~(4)~~ (3) Section ~~62A-15-118~~ is repealed December 31, 2023.

107 [~~(5)~~ (4) Section ~~62A-15-124~~ is repealed December 31, 2024.

108 [~~(6)~~ (5) Section ~~62A-15-605~~, which creates the Forensic Mental Health Coordinating
109 Council, is repealed July 1, 2023.

110 [~~(7)~~ (6) Subsections ~~62A-15-1100~~(1) and ~~62A-15-1101~~(9), in relation to the Utah
111 Substance Use and Mental Health Advisory Council, are repealed January 1, 2033.

112 [~~(8)~~ (7) In relation to the Behavioral Health Crisis Response Commission, on July 1,
113 2023:

- 114 (a) Subsections 62A-15-1301(2) and 62A-15-1401(1) are repealed;
- 115 (b) Subsection 62A-15-1302(1)(b), the language that states "and in consultation with
116 the commission" is repealed;
- 117 (c) Subsection 62A-15-1303(1), the language that states "In consultation with the
118 commission," is repealed;
- 119 (d) Subsection 62A-15-1402(2)(a), the language that states "With recommendations
120 from the commission," is repealed; and
- 121 (e) Subsection 62A-15-1702(6) is repealed.