

1                                   **LONG TERM CARE OMBUDSMAN AMENDMENTS**

2   2023 GENERAL SESSION

3   STATE OF UTAH

4   **Chief Sponsor: Steve Eliason**

5   Senate Sponsor: Luz Escamilla

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7   **LONG TITLE**

8   **Committee Note:**

9           The Health and Human Services Interim Committee recommended this bill.

10           Legislative Vote: 16 voting for 0 voting against 2 absent

11   **General Description:**

12           This bill amends requirements relating to assisted living facilities.

13   **Highlighted Provisions:**

14           This bill:

15           ▶ amends requirements for certain facility-initiated transfers or discharges of a  
16   resident;

17           ▶ removes a sunset date; and

18           ▶ makes technical changes.

19   **Money Appropriated in this Bill:**

20           None

21   **Other Special Clauses:**

22           None

23   **Utah Code Sections Affected:**

24   AMENDS:

25           **26-21-305**, as enacted by Laws of Utah 2018, Chapter 220

26           **62A-3-209**, as enacted by Laws of Utah 2018, Chapter 220

27           **63I-1-262**, as last amended by Laws of Utah 2022, Chapters 34, 35, 149, 257, and 335



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

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

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

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

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

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

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

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

(2) [~~When a facility initiates the~~] Before a transfer or discharge [~~of a resident~~] described in Subsection (1) occurs, the facility from which the resident is transferred or discharged shall:

~~[(1)]~~ (a) 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)]~~ (i) the reasons for the transfer or discharge;

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

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

and

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

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

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

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

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

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

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

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

62            ~~[(4)]~~ (d) update the transfer or discharge notice as soon as practicable before the  
63 transfer or discharge if information in the notice changes before the transfer or discharge;

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

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

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

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

70            ~~[(7)]~~ (3) ~~[in]~~ In the event of a facility closure, the facility shall provide written  
71 notification of the closure to the ombudsman, each resident of the facility, and each resident's  
72 responsible person.

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

74            **62A-3-209. Assisted living facility transfers.**

75            (1) After the ombudsman receives a notice described in Subsection ~~[26-21-305(1)(a)]~~  
76 26-21-305(2)(b), the ombudsman shall:

77            (a) review the notice; and

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

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

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

83            (b) confirm the details in the notice described in Subsection ~~[26-21-305(1)(a)]~~  
84 26-21-305(2)(b), including:

85            (i) the name of the resident;

86            (ii) the reason for the transfer or discharge;

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

88            (iv) a description of the resident's next living arrangement; and

89            (c) provide the resident an opportunity to discuss any concerns or complaints the

90 resident may have regarding:

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

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

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

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

102 **63I-1-262. Repeal dates: Title 62A.**

103 [~~1~~] Section ~~62A-3-209~~ is repealed July 1, 2023.]

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

106 [~~3~~] (2) Subsections ~~62A-15-116~~(1) and (5), the language that states "In consultation  
107 with the Behavioral Health Crisis Response Commission, established in Section ~~63C-18-202~~,"  
108 is repealed January 1, 2023.

109 [~~4~~] (3) Section ~~62A-15-118~~ is repealed December 31, 2023.

110 [~~5~~] (4) Section ~~62A-15-124~~ is repealed December 31, 2024.

111 [~~6~~] (5) Section ~~62A-15-605~~, which creates the Forensic Mental Health Coordinating  
112 Council, is repealed July 1, 2023.

113 [~~7~~] (6) Subsections ~~62A-15-1100~~(1) and ~~62A-15-1101~~(9), in relation to the Utah  
114 Substance Use and Mental Health Advisory Council, are repealed January 1, 2033.

115 [~~8~~] (7) In relation to the Behavioral Health Crisis Response Commission, on July 1,  
116 2023:

- 117 (a) Subsections ~~62A-15-1301~~(2) and ~~62A-15-1401~~(1) are repealed;
- 118 (b) Subsection ~~62A-15-1302~~(1)(b), the language that states "and in consultation with  
119 the commission" is repealed;
- 120 (c) Subsection ~~62A-15-1303~~(1), the language that states "In consultation with the

121 commission," is repealed;

122 (d) Subsection 62A-15-1402(2)(a), the language that states "With recommendations  
123 from the commission," is repealed; and

124 (e) Subsection 62A-15-1702(6) is repealed.