

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 83rd General Assembly
3 Regular Session, 2001
4

As Engrossed: S4/4/01 S4/9/01

A Bill

Act 1763 of 2001
SENATE BILL 947

5 By: Senator Baker
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For An Act To Be Entitled

9 AN ACT TO AMEND ARKANSAS CODE 20-10-1005 TO
10 PROVIDE RELIEF TO LONG-TERM CARE FACILITIES
11 AGAINST DELAYED DECISIONS FROM APPEAL HEARINGS
12 AND AGAINST THE FRIVOLOUS FILING OF APPEALS; AND
13 FOR OTHER PURPOSES.
14

Subtitle

15 AN ACT TO PROVIDE LONG TERM CARE
16 FACILITIES WITH RELIEF AGAINST DELAYED
17 DECISIONS FROM APPEAL HEARING AND
18 AGAINST THE FRIVOLOUS FILING OF APPEALS.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 SECTION 1. Arkansas Code 20-10-1005 is amended to read as follows:
25 20-10-1005. Procedure for transfer or discharge of residents -

26 Violations.

27 (a) The Office of Long-Term Care shall prescribe through rule or
28 regulation the procedure for transfer or discharge of residents to be
29 followed by long-term care facilities. The procedure shall include:

30 (1) Provisions for a written notice to be furnished to the
31 resident, sponsor, and other appropriate parties thirty (30) days prior to
32 any involuntary transfer or discharge and regulations setting forth the
33 following circumstances for which the written notice need not be furnished:

34 (A) The transfer or discharge is necessary to meet the
35 resident's welfare, and the resident's welfare cannot be met in the facility;

36 (B) The transfer or discharge is appropriate because the

1 resident's health has improved sufficiently so that the resident no longer
2 needs the services provided by the facility;

3 (C) The safety of individuals in the facility is
4 endangered;

5 (D) The health of individuals in the facility would
6 otherwise be endangered;

7 (E) The resident has failed, after reasonable and
8 appropriate notice, to pay, or to have paid under state-administered programs
9 on the resident's behalf, an allowable charge imposed by the facility for an
10 item or service requested by the resident and for which a charge may be
11 imposed consistent with federal and state laws and regulations; or

12 (F) The facility ceases to operate;

13 (2)(A) An appeals process for residents objecting to an
14 involuntary transfer or discharge which places the burden of proof for
15 justification of the transfer or discharge on the facility.

16 (B) The appeals process for objections to transfer or
17 discharge shall include provisions for the resident or sponsor, within seven
18 (7) days upon receipt of the written notice of transfer or discharge, to file
19 a written objection to the transfer.

20 (C) Unless otherwise agreed to by the parties, A a hearing
21 must be scheduled within fourteen (14) days following the filing of the
22 objection.

23 (D) Unless otherwise agreed to by the parties, A a final
24 determination shall be rendered within seven (7) days following the hearing;
25 and

26 (3) The contents of the written notice, including a statement in
27 clear and concise language of the appeal process to be followed by the
28 resident and the time periods in which:

29 (A) The resident must request an appeal;

30 (B) The appeal must be heard; and

31 (C) The earliest date a transfer would be allowed if the
32 decision is against the resident.

33 (b) A request for a hearing shall stay a transfer pending a final
34 determination.

35 (c) If the facility prevails and the final determination is not
36 rendered within seven (7) days of the conclusion of the hearing, the

1 Department of Human Services shall bear the cost of the resident's continued
2 stay in the nursing facility until such time as the decision is rendered.

3 ~~(c)~~(d) The facility shall provide preparation and orientation to
4 residents to ensure a safe and orderly transfer or discharge.

5 ~~(d)~~(e) Failure to comply with the transfer or discharge procedures as
6 prescribed by the office shall be considered a Class B violation under § 20-
7 10-205 for which civil penalties set forth in § 20-10-206 may be imposed.

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12 /s/ Baker
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15 APPROVED: 4/18/2001
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