

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 84th General Assembly
3 Regular Session, 2003

A Bill

HOUSE BILL 2314

4
5 By: Representative Borhauer
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7

For An Act To Be Entitled

8
9 AN ACT TO REPEAL THE REQUIREMENT FOR A PERMIT OF
10 APPROVAL FOR LONG-TERM CARE FACILITIES; AND FOR
11 OTHER PURPOSES.
12

Subtitle

13
14 AN ACT TO REPEAL THE REQUIREMENT FOR A
15 PERMIT OF APPROVAL FOR LONG-TERM CARE
16 FACILITIES.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. The General Assembly finds that:

22 (1) The requirement for a permit of approval for long-term care
23 facilities:

24 (A) Has the effect of limiting competition based on quality of
25 care and range of service options within Arkansas, causing certain areas of
26 the state to be underserved for necessary health care needs;

27 (B) Contravenes the goal of the decision of the United States
28 Supreme Court in Olmstead v. L.C. to reduce the institutional bias in
29 services for the elderly and people with disabilities by maintaining a range
30 of facilities offering real choices;

31 (C) Contravenes the goal of the "Integration Mandate" of the
32 Americans with Disabilities Act, which maintains that states must administer
33 their services, programs and activities in the most integrated setting
34 appropriate to the needs of qualified individuals with disabilities; and

35 (D) Impedes the state's efforts to implement a comprehensive,
36 effectively working Olmstead plan, including components to address the needs



1 of Arkansas' aging population, persons with mental illness, persons with
2 developmental disabilities and other populations of persons with
3 disabilities.

4 (2)(A) The state has an obligation to provide public services in the
5 least restrictive setting consistent with the choice of and appropriate to
6 the needs of the person being served;

7 (B) Lack of sufficient long-term care options in Arkansas has
8 resulted in unjustified isolation or segregation of qualified individuals
9 with disabilities through institutionalization, a form of disability-based
10 discrimination prohibited by the Americans With Disabilities Act;

11 (C) Nursing homes, assisted living facilities, residential care
12 facilities, lifecare facilities, and hospice facilities are necessary
13 components of the continuum of care in Arkansas.

14 (D) The policies, procedures and methodologies of the Health
15 Services Permit Commission place the financial interests of providers:

16 (i) Above the wishes of consumers regarding their long-
17 term care needs; and

18 (ii) Above the state's obligation to provide community-
19 based services for the elderly and people with disabilities otherwise
20 entitled to institutional services.

21 (iii) The policies, procedures and methodologies of the
22 Health Services Permit Commission prohibit the development of a full
23 continuum of long-term care facilities for the elderly and people with
24 disabilities in Arkansas.

25 (3) It is in the best interests of Arkansas and its citizens that the
26 requirement for a permit of approval for long-term care facilities be
27 abolished.

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29 SECTION 2. Purpose and intent.

30 The purpose of this act is to:

31 (1) Encourage the availability of a full spectrum of health and human
32 service options;

33 (2) Enable the elderly and people with disabilities to choose where
34 they live and receive supports and services;

35 (3) Promote the availability of a range of long-term care facilities
36 to allow the elderly and people with disabilities to live in the least

1 restrictive and most homelike environment, utilizing more integrated housing
2 designs that are not large or institutional in nature; and

3 (4) Encourage the development of resident-centered long-term care
4 facilities that promote the dignity, individuality, privacy, and decision-
5 making ability of such persons.

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7 SECTION 3. Arkansas Code § 20-7-117 is amended to read as follows:
8 20-7-117. Hospices.

9 (a) There is created within the Department of Health a State Hospice
10 Office to be administered in a division of the department to be designated by
11 the Director of the Department of Health.

12 (b)(1) The State Hospice Office created within the department shall:

13 (A) Coordinate the care of terminally ill persons with all
14 existing agencies, programs, and facilities;

15 (B) Implement rules, regulations, and standards for
16 hospice care in general agreement with guidelines of the National Hospice
17 Organization and the Arkansas State Hospice Association and in compliance
18 with the Health Care Finance Administration;

19 (C) Provide technical assistance and information to
20 developing hospices;

21 (D) Maintain a central storehouse of information and
22 reference materials relating to the hospice concept and disseminate this to
23 programs and individuals on request in an equitable manner and accept and
24 respond to inquiries relating to hospice; and

25 (E) Assist the Arkansas State Hospice Association in
26 developing the hospice concept in our state and networking hospice programs
27 with existing medical communities and human service facilities.

28 (2) All functions and duties of the office shall be carried out
29 in accordance with the laws of Arkansas and the regulations of ~~the Health~~
30 ~~Services Permit Agency, the Health Services Permit Commission, and the~~
31 ~~federal Health Care Financing Administration~~ Centers for Medicare and
32 Medicaid Services.

33 ~~(c)(1) The regulations and requirements of the Health Services Permit~~
34 ~~Agency and the Health Services Permit Commission shall be revised to include~~
35 ~~separate permit-of-approval categories of health care facilities entitled~~
36 ~~"hospice facilities" and "hospice agencies" and to develop criteria for~~

1 ~~granting the permits of approval for hospice facilities and for hospice~~
2 ~~agencies for which applications shall be filed in accordance with the~~
3 ~~criteria after March 7, 1997, provided that those entities that have filed~~
4 ~~written intent to build a hospice facility or to operate a hospice agency~~
5 ~~with both the Health Services Permit Agency and the Department of Health~~
6 ~~prior to March 7, 1997, shall have thirty six (36) months to complete the~~
7 ~~project and be licensed.~~

8 (2) A hospice facility or hospice agency shall not convert its
9 licensure to any other license.

10 (d) When used in this section, the term "hospice" or "hospice program"
11 means an autonomous, centrally administered, medically directed, coordinated
12 program providing a continuum of home, outpatient, and homelike inpatient
13 care for the terminally ill patient and the patient's family, and which
14 employs an interdisciplinary team to assist in providing palliative and
15 supportive care to meet the special needs arising out of the physical,
16 emotional, spiritual, social, and economic stresses which are experienced
17 during the final stages of illness and during dying and bereavement. The
18 care shall be available twenty-four (24) hours a day, seven (7) days a week,
19 and provided on the basis of need, regardless of ability to pay.

20 (e) The licensure fee for a hospice shall be an annual fee of five
21 hundred dollars (\$500).

22 (f) No permit of approval may be required for a hospice facility after
23 the effective date of this act.

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25 SECTION 4. Arkansas Code § 20-8-103, concerning the powers and duties
26 of the Health Services Permit Commission, is amended to add a new subsection
27 as follows:

28 (h) The permit of approval process for long-term care facilities
29 as required under this subchapter is repealed on the effective date of this
30 act.

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32 SECTION 5. Arkansas Code 20-8-106(a), concerning permits issued by the
33 Health Services program, is amended to add a new subdivision as follows:

34 (4) No permit of approval may be required by the agency or the
35 commission for long-term care facilities.

SECTION 6. Arkansas Code 20-10-1709 is amended to read as follows:
20-10-1709. Permit of approval.

~~(a) No permit of approval may be required for Facilities facilities offering assisted living services, must obtain a permit of approval. Provided, however, that permits of approval held by residential care facilities as of April 2, 2001, or held by subsequent purchasers of those facilities, shall also be considered permits of approval for assisted living without further action. However, residential care facilities that choose to offer assisted living services are not exempted from assisted living licensure requirements except as provided in § 20-10-1704.~~

~~(b)(1)(A) Provided, further, that in order to take advantage of a Robert Wood Johnson Foundation grant, one (1) new facility chosen by the Department of Human Services may serve as a pilot project without the necessity of a permit of approval. This facility shall be exempt from the permit of approval process provided that in 2001 it is awarded funding from the Coming Home Project and tax credits from the Arkansas Development Finance Authority.~~

~~(B) The Coming Home Project means the Robert Wood Johnson Foundation/NCB Development Corporation grant.~~

~~(2) The facility shall have no more than sixty (60) beds and shall serve a population a majority of which is low income as defined by the Department of Housing and Urban Development.~~

~~(3) The pilot project facility must still meet all other licensure requirements.~~

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