

State of Arkansas

76th General Assembly

Regular Session, 1987 AS ENGROSSED 4/7/87

HOUSE BILL 1749

By: Representative Matthews

"AN ACT TO AMEND SECTION 9 OF ACT 28 OF 1979, AS AMENDED [ARK. STATS. 82-2211], TO PROVIDE AN AUTOMATIC STAY PENDING APPEAL; TO PROVIDE AN IMPARTIAL HEARING OFFICER; TO MAKE THE LONG TERM CARE ADVISORY BOARD'S DECISION SUBJECT TO REVIEW BY THE DEPUTY DIRECTOR OF ECONOMIC AND MEDICAL SERVICES; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Section 9 of Act 28 of 1979, as amended, the same being Arkansas Statute 82-2211, is hereby amended to read as follows:

"Section 9. (A) The Long Term Care Facility Advisory Board created herein shall have the power and authority to hear all appeals by licensed Long Term Care Facilities, Long Term Care Administrators, or other parties regulated by the Office of Long Term Care with regard to licensure and certification.

(B) Any Long Term Care facility or party regulated by the Office of Long Term Care seeking a hearing before the Long Term Care Advisory Board shall submit a request in writing to the Chairman of the Board. Such written request until denied by the Chairman shall stay the action of the appeal pending the hearing and final decision.

(C) Upon receiving a written request for a hearing from any party regulated by the Office of Long Term Care, the Chairman of the Long Term Care Facility Advisory Board shall place such request on the agenda to be considered in a hearing at the next scheduled, or called, meeting of the Board, and may assign the appeal to an impartial hearing officer who shall not be a full-time employee of the Department of Human Services.

(D) The Chairman shall notify in writing both the party, or parties, making the request to the Director of the Office of Long Term Care, the date,

time and place, of the hearing. This notification by the Chairman shall be in writing, and shall be sent at least seven (7) working days prior to the hearing date.

(E) The Board chairman and the hearing officer shall both have authority to issue subpoenas at the request of any party to an appeal. The hearing officer may preside over the appeal which shall be conducted in accordance with the Administrative Procedures Act, Act 434 of 1967, as amended, and make specific Findings of Fact and Conclusions of Law in the form of recommendations to the Long Term Care Advisory Board.

(F) All decisions rendered by the Long Term Care Facility Advisory Board shall be submitted to the Deputy Director of the Division of Economic and Medical Services of the Department of Human Services, subject to his review and final determination, which he may, for good cause, approve, reject or remand to the Board for further proceedings. Any rejection of the decisions of the Board must clearly state in writing the basis for the rejection, the statutory and regulatory grounds for the rejection, and must be filed as the final decision of the Agency.

(G) The Deputy Director of the Division of Economic and Medical Services of the Department of Human Services must act on a decision of the Long Term Care Facility Advisory Board within thirty (30) days of its decision or else the decision of the Board shall be final.

(H) The Long Term Care Facility Advisory Board shall meet at least once every three (3) months, and may meet more often, if meetings are called by the Chairman or by a majority of the Board members, and all members of the Board are duly notified.

(I) Any party subject to appear before the Board may appear and be heard at any proceeding prescribed herein, or may choose to be represented by an attorney at law or through other designated representatives."

SECTION 2. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 3. EMERGENCY. It is hereby found and determined by the General Assembly that the immediate establishment of an impartial hearing officer for appeals from agency decisions in the field of Long Term Care is necessary to preserve the public health, welfare, and safety. Therefore, an emergency is

hereby declared to exist and this Act, being immediately necessary for the preservation of the public peace, health, and safety, shall be in full force and effect from and after its passage and approval.

