

State of Arkansas

CALL ITEM 13

76th General Assembly

Fourth Extraordinary Session, 1988

HOUSE BILL 1006

By: Representatives Lipton and McGinnis

"AN ACT TO AMEND ARKANSAS CODE OF 1987, TITLE 20, CHAPTER 10, SECTION 207 TO REQUIRE THE POSTING OF SURVEYS AND CLASS A AND B VIOLATIONS IN LONG-TERM CARE FACILITIES; AND FOR OTHER PURPOSES."

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

SECTION 1. Arkansas Code 20-10-207 is hereby amended to read as follows:

"20-10-207. Notification to media of violations.

(a) When the Office of Long-Term Care of the appropriate division as determined by the Director of the Department of Human Services finds, upon inspection and investigation, that any nursing home has committed two (2) violations constituting Class A or Class B violations as defined in §20-10-205, as amended, during any twelve-month period, the Office of Long-Term Care shall so notify the various news media within the county wherein the nursing home is located and shall advise the media that a complete record of the inspection and investigation will be available for public inspection at the Office of Long-Term Care.

(b) However, no information shall be made available which will identify any resident, the family of any resident of the nursing home, or any person who has filed a complaint against a nursing home or against an administrator or any personnel of a nursing home, except in cases of criminal or civil litigation.

(c) When the Office of Long-Term Care finds, upon inspection and investigation, that any long-term care facility has committed a Class A or B violation, following final determination of the matter on administrative appeal, the long-term care facility administrator shall cause copies of the notice of violation as prepared by the Office of Long-Term Care to be posted on all

entries to the facility. The notice shall be posted within seven (7) days of the final determination of the matter on administrative appeal and shall remain posted for a period of not less than ninety (90) days.

(d) The notice of violation shall meet the following requirements:

(1) The notice shall read:

(A) NOTICE

(B) This facility has been cited with a CLASS A or B

VIOLATION.

(C) Pursuant to Ark. Code Ann. §20-10-205 (1987), "Class A violations create a condition or occurrence relating to the operation and maintenance of a long-term care facility resulting in death or serious physical harm to a resident or creating a substantial probability that death or serious physical harm to a resident will result therefrom. Class B violations create a condition or occurrence relating to the operation and maintenance of a long-term care facility which directly threatens the health, safety, or welfare of a resident."

(D) Date of violation: _____

(E) Nature of violation: _____

(F) Further information can be obtained from the Office of Long Term Care at (_____ number _____).

(G) This notice shall remain posted for a period not less than 90 days from (date) to (date).

(2) The notice shall be printed in accordance with the following specifications:

(A) The notice shall be 8-1/2 x 11 inches in size.

(B) It shall be printed on a white background.

(C) Subsection (1)(A) shall be printed in red ink in all capital letters at the top center of the page in 48 point bold-face type.

(D) Subsection (1)(B) shall be printed in black ink in 18 point type, except for the words "CLASS A or B VIOLATION," which shall be printed in red ink, in capital letters, in 24 point bold-face type.

(E) Subsection (1)(C) shall be printed in black ink with 10 point type. This paragraph shall be indented and boxed.

(F) Subsections (1)(D) and (1)(E) shall be underlined and printed in black ink with 18 point type.

(G) Subsections (1)(F) and (1)(G) shall be printed in bold-

face 18 point type.

(H) The entries to be made shall be written in indelible red ink.

(e) A notice of correction may be posted by the facility administrator upon receipt from the Office of Long-Term Care provided such notice does not obscure the notice of violation. Posting of the notice of correction shall not reduce the amount of time required for the posting of the notice of violation set forth above.

(f) The Ombudsman of the Division of Aging and Adult Services of the department shall be furnished with each final copy of a survey upon completion by the Office of Long-Term Care. The Ombudsman shall prepare a summary letter which sets forth in clear and concise language the area of noncompliance and the history of the facility's compliance record for the prior three (3) years. The summary letter shall be considered separately from the survey process and shall not be admissible as evidence in any proceeding by either party in litigation arising from licensure or certification of long-term care facilities. Copies of the summary letter shall be furnished by the Office of Long-Term Care to the facility administrator and the Office of Attorney General.

(g) A long-term care facility required to be licensed hereunder shall post in a conspicuous place readily accessible to residents and visitors the most recent copy of the statement of deficiencies and plans of correction survey report received by the facility. With the survey report, the facility shall post the summary letter prepared by the Ombudsman of the Division of Aging and Adult Services of the department. The survey and letter shall remain posted until the next survey report is received by the facility.

(h) Failure to post a notice of violation as required by (c) above, shall be considered a Class B violation under Ark. Code 20-10-202 for which civil penalties set forth in Ark. Code 20-10-206 may be imposed with each day of noncompliance constituting a separate offense. Otherwise, the failure to comply with the requirements of this section by a long-term care facility or facility administrator shall be considered a Class B violation under Ark. Code 20-10-205 for which civil penalties set forth in Ark. Code 20-10-206 may be imposed."

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 during recent months, certain inadequacies in the continuum of health care for the older citizens of this State have been brought to the attention of the General Assembly; that this Act is necessary to assure each citizen of this State in need of long-term care that a high quality of care at affordable cost will be provided; that the older citizenry of this State deserve the best possible care; that the immediate passage of this Act is essential to the health, welfare and safety of the citizens of the State of Arkansas and to avoid irreparable harm upon the proper administration of an essential government program. Therefore, an emergency is hereby declared to exist and this act being 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.

