

State of Arkansas
77th General Assembly
Regular Session, 1989

HOUSE BILL

1344

By: Representative Wagner

"AN ACT TO AMEND TITLE 20, CHAPTER 10, SUBCHAPTER 2, OF THE ARKANSAS CODE OF 1987 TO ESTABLISH CRITERIA FOR LICENSURE FOR NEW OR EXPANDED LONG TERM CARE FACILITIES; AND FOR OTHER PURPOSES."

WHEREAS, it is the desire of the General Assembly to provide protection for those citizens residing in Long-Term Care Facilities; and

WHEREAS, protection would be provided by establishing criteria upon which to base licensure approval for new or expanded facilities and facilities which undergo ownership or operational control changes; and

WHEREAS, to assure the suitability of the license applicant, provide continuity of care for residents, and to insure the accountability for continuing obligations;

NOW, THEREFORE;

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

SECTION 1. Ark. Code 20-10-224 is hereby amended to read as follows:

"20-10-224. License required - Administration by Department of Human Services.

(a) No long-term care facility or related institution shall be established, conducted, or maintained in this state without obtaining a license.

(b) The department may, by properly promulgating rules and regulations, provide for the issuance of three (3) types of long-term care facility licenses, namely: minimum care long-term care facility licenses; intermediate care long-term care facility licenses; and skilled care long-term care facility licenses.

(c) The department may provide, by properly promulgating rules and

regulations, for the issuance of permanent type licenses, subject to revocation.

(d) No license shall be issued or renewed for any long-term care facility unless the applicant has included in the application the name and such other information as may be necessary to establish the identity and financial interests of any person who has incidence of ownership in the facility representing an interest of five (5) per cent or more thereof. If the person having such interests is a corporation, the name of any stockholder holding stock representing an interest in the facility of five (5) per cent or more shall be included in the application. If the person having such interests is any other entity, the name of any member thereof having incidence of ownership representing an interest of five (5) percent or more shall also be included in the application. This requirement as well as any other requirement determined appropriate by the department, shall be in accordance with the guidelines provided by the Department.

(e) (1) Whenever ownership or controlling interest in the operation of a facility is transferred from the person(s) named in the license to any other person(s), the transferee must obtain a license to operate the facility. The transferee shall notify the Department of the transfer and apply for a license at least 30 days prior to final transfer.

(2) The transferor shall notify the Department at least 30 days prior to final transfer. The transferor shall remain responsible for the operation of the facility until such time as a license is issued to the transferee.

(3) The transferee shall be subject to any plan of correction submitted by the previous licensee and approved by the Department.

(4) The transferor shall remain liable for all penalties assessed against the facility which are imposed for violations or deficiencies occurring prior to transfer of ownership or operational control.

(5) Before approval of the application for licensure of the transferee the Department shall consider:

(A) whether the administrator, officers, directors or partners have ever been convicted of a felony or a misdemeanor involving moral turpitude, or other satisfactory evidence that the moral character of these persons is not reputable;

(B) whether there are sufficient financial or other resources to operate and conduct the facility in accordance with the standards as set by

state and federal law;

(C) whether any facility(s) owned or operated by the applicant(s) has been found to have committed a violation that created a condition or occurrence related to the operation and maintenance of a long-term care facility which resulted in death or serious physical harm to a resident or created a substantial probability that death or serious physical harm to a resident would result therefrom within the twelve (12) months prior to the license application;

(D) whether during the five (5) years prior to the application the applicant(s) has had a license revoked or if after receiving written notice of the intention to revoke a license, divested himself of his interest in the facility;

(E) whether the applicant(s) has demonstrated to the satisfaction of the Department that any other facility owned, operated, or administered by the applicant(s) has been in substantial compliance with the standards as set by state and federal law for the previous twelve (12) month period prior to application for licensure.

(F) whether the applicant has complied with any other standards or requirements as determined appropriate by the Department.

(f) (1) Before issuing a license or approving the operation of any long-term care facility which was not licensed at the time of application or any additional bed capacity of a licensed facility, the Department shall consider the criteria established in subsection (e) (5) (A) - (F) above.

(2) This subsection is not intended to circumvent or alter the requirements set forth in Ark. Code Ann. 20-8-101 et seq."

SECTION 2. All provisions of this Act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 3. All laws and parts of laws in conflict with this Act are hereby repealed.

