

State of Arkansas

77th General Assembly

Regular Session, 1989

A Bill

SENATE BILL

181

By: Senator Bearden

For An Act To Be Entitled

"AN ACT TO AMEND TITLE 20, CHAPTER 10, SUBCHAPTER 2 OF THE ARKANSAS CODE OF 1987 TO REQUIRE ANNUAL DISCLOSURE STATEMENTS TO BE PROVIDED TO RESIDENTS OF LONG TERM CARE FACILITIES UPON APPLICATION OR RENEWAL FOR LICENSURE; TO PROVIDE FOR FILING OF THE ANNUAL STATEMENT; AND FOR OTHER PURPOSES."

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

SECTION 1. Title 20, Chapter 10, Subchapter 2 of the Arkansas Code of 1987 is hereby amended by adding the following new subsections to read as follows:

"20-10-229. Disclosure Statement Required. Any person or facility seeking a license or renewal to provide long term care in this state shall furnish a current annual disclosure statement to all residents upon admission, and to all prospective residents at least seven (7) days prior to entering into a facility. The statement shall contain the following information:

(1) The name and business address of the facility and a statement as to whether the facility is a partnership, corporation, or other type of legal entity:

(2) The names and business addresses of the officers, directors, trustees, managing or general partners, or any person having a five (5) percent or greater equity or beneficial interest in or of the facility and a description of each person's interest in or occupation with the facility;

(3) A statement as to whether the facility or any of its officers, directors, trustees, partners, or managers, prior to the date of application:

(A) Has ever been convicted of a felony, a crime that if committed in Arkansas would be a felony, or any crime having to do with the provision of continuing care, or long term care;

(B) Has ever been held liable or enjoined in a civil

action by final judgment if the civil action involved fraud, embezzlement, fraudulent conversion, or misappropriation of property;

(C) Had a discharge in bankruptcy or was found insolvent in any court action within the last ten (10) years;

(D) Had any state or federal licenses or permits suspended or revoked or had any state, federal, or industry self-regulatory agency commence an action against him and the result of the action within the last ten (10) years; or

(E) Had any Class A or B violations pursuant to this chapter within the last five (5) years.

(4) A statement as to:

(A) Whether the facility is or has ever been affiliated with a religious, charitable, or other non-profit organization;

(B) The nature of the affiliation, if any;

(C) The extent to which the affiliate organization will be responsible for the financial and contract obligations of the facility;

(D) The provision of the Internal Revenue Code, if any, under which the provider or affiliate is exempt from the payment of income tax;

(5) The location and description of the physical property or property of the facility, existing or proposed, and to the extent proposed, the estimated completion date or dates whether or not construction has begun, and the contingencies subject to which construction may be deferred;

(6) The disclosure statement shall clearly state which services are included in basic care contracts for long term care and which services are available at or by the facility at extra charge;

(7) A description of all fees required of residents, including the entrance fee and periodic charges, if any. The description shall include the manner in which the facility may adjust periodic charges or other recurring fees and the limitations on the adjustments, if any;

(8) A copy of the standard form or forms of contract used by the facility which contain the minimum requirements of this chapter for long term care contracts to be attached as an exhibit to each disclosure statement.

20-10-230. Each facility must file the completed annual disclosure statement with the Office of the Clerk of the Circuit Court and ex-officio recorder in the County the facility is located.

20-10-231. The providing of false or misleading information within the

disclosure statement, or the failure to provide disclosure in a timely manner, shall be a Class C violation, pursuant to Ark. Code Ann. 20-10-205."

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.