

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
4

As Engrossed: H4/16/03

A Bill

HOUSE BILL 2446

5 By: Representative Bright
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For An Act To Be Entitled

9 AN ACT TO REQUIRE NOTIFICATION OF LONG-TERM CARE
10 FACILITY VIOLATIONS TO THE GENERAL ASSEMBLY; AND
11 FOR OTHER PURPOSES.
12

Subtitle

13 AN ACT TO REQUIRE NOTIFICATION OF LONG-
14 TERM CARE FACILITY VIOLATIONS TO THE
15 GENERAL ASSEMBLY.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code § 20-10-207 is amended to read as follows:
22 20-10-207. Notification to media and General Assembly of violations.

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

32 (b) However, no information shall be made available which will
33 identify any resident, the family of any resident of the nursing home, the
34 residential care facility, or any person who has filed a complaint against a
35 nursing home or against an administrator or any personnel of a nursing home
36 or residential care facility, except in cases of criminal or civil



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1 litigation.

2 (c) When the office finds, upon inspection and investigation, that any
3 long-term care facility has committed a Class A or Class B violation,
4 following final determination of the matter on administrative appeal, the
5 long-term care facility administrator shall cause copies of the notice of
6 violation as prepared by the office to be posted on the front entry to the
7 facility to be visible from the interior. The notice shall be posted within
8 seven (7) days of the final determination of the matter on administrative
9 appeal and shall remain posted for a period of not less than sixty (60) days.

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

11 (1) The notice shall read:

12 (A) "NOTICE

13 (B) "This facility has been cited with a CLASS A or B
14 VIOLATION.

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

23 (D) "Date of violation: _____

24 (E) "Nature of violation: _____

25 (F) "Further information can be obtained from the Office
26 of Long - Term Care at (number).

27 (G) "This notice shall remain posted for a period not less
28 than 60 days from (date) to (date)."

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

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

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

33 (C) Subdivision (d)(1)(A) of this subsection shall be
34 printed in red ink in all capital letters at the top center of the page in
35 48-point boldface type.

36 (D) Subdivision (d)(1)(B) of this subsection shall be

1 printed in black ink in 18-point type, except for the words "CLASS A or CLASS
2 B VIOLATION", which shall be printed in red ink, in capital letters, in 24-
3 point boldface type.

4 (E) Subdivision (d)(1)(C) of this subsection shall be
5 printed in black ink with 10-point type. This paragraph shall be indented and
6 boxed.

7 (F) Subdivisions (d)(1)(D) and (d)(1)(E) of this
8 subsection shall be underlined and printed in black ink with 18-point type.

9 (G) Subdivisions (d)(1)(F) and (d)(1)(G) of this
10 subsection shall be printed in 18-point boldface type.

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

13 (e) A notice of correction may be posted by the facility administrator
14 upon receipt from the office provided that the notice does not obscure the
15 notice of violation. Posting of the notice of correction shall not reduce the
16 amount of time required for the posting of the notice of violation set forth
17 above.

18 (f) The Ombudsman of the Division of Aging and Adult Services of the
19 Department of Human Services shall be furnished with each final copy of a
20 survey upon completion by the office. The Ombudsman shall prepare a one-page
21 form letter which specifically states whether the facility was found in
22 compliance or out of compliance during the most recent annual survey. In
23 addition, the letter shall include the same information from the previous
24 three (3) annual surveys. The summary letter shall be considered separately
25 from the survey process and shall not be admissible as evidence in any
26 proceeding by either party in litigation arising from licensure or
27 certification of long-term care facilities. Copies of the summary letter
28 shall be furnished by the office to the facility administrator and the office
29 of the Attorney General.

30 (g) A long-term care facility required to be licensed hereunder shall
31 post in a conspicuous place, readily accessible to residents and visitors,
32 the final certification survey following final administrative determination
33 as defined by regulation of the statement of deficiencies and plans-of-
34 correction survey report received by the facility. With the survey report,
35 the facility shall post the summary letter prepared by the Ombudsman. The
36 survey and letter shall remain posted until the next survey report is

1 received by the facility.

2 (h)(1) When the Office of Long-Term Care’s appropriate division, as
3 determined by the Director of the Department of Human Services, finds, upon
4 inspection and investigation, that any nursing home has committed a violation
5 of any state or federal law, rule or regulation applicable to the nursing
6 home, the office shall notify the House Committee on Public Health, Welfare
7 and Labor and the Senate Committee on Public Health, Welfare and Labor of the
8 General Assembly.

9 (2) The notice shall be in writing, and shall be provided
10 monthly, with a list of all nursing homes for the preceding month against
11 whom the office has determined that a violation has occurred.

12 (3) The written notice shall include the statement of
13 deficiencies noted by the office for each home.

14 (i) No information shall be made available that will identify any
15 nursing home resident, the family of any resident, or any person who has
16 filed a complaint against a nursing home, nursing home administrator, or any
17 nursing home personnel, except in cases of criminal or civil litigation.

18 (j) Notice to the House Committee on Public Health, Welfare and Labor
19 and the Senate Committee on Public Health, Welfare and Labor of the General
20 Assembly shall be made after the agency’s final administrative decision, and
21 shall not be delayed pending judicial appeal.

22 ~~(h)~~(k) Failure to post a notice of violation as required by subsection
23 (c) or subsection (h) of this section shall be considered a Class C violation
24 under § 20-10-205 for which civil penalties set forth in § 20-10-206 may be
25 imposed, with each day of noncompliance constituting a separate offense.
26 Otherwise, the failure to comply with the requirements of this section by a
27 long-term care facility or facility administrator shall be considered a Class
28 C violation under § 20-10-205 for which civil penalties set forth in § 20-10-
29 206 may be imposed.

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31 /s/ Bright
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