

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 86th General Assembly  
3 Regular Session, 2007  
4

As Engrossed: H3/12/07

# A Bill

HOUSE BILL 1132

5 By: Representatives S. Prater, Bond, Key, L. Evans, Flowers, Stewart, J. Roebuck, S. Dobbins, Gaskill,  
6 Harrelson, House, D. Hutchinson, Powers, Sullivan, Webb, Wood  
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8

## For An Act To Be Entitled

10 AN ACT TO CREATE THE ARKANSAS OPTIONS COUNSELING  
11 FOR LONG-TERM CARE PROGRAM; AND FOR OTHER  
12 PURPOSES.  
13

### Subtitle

15 AN ACT TO CREATE THE ARKANSAS OPTIONS  
16 COUNSELING FOR LONG-TERM CARE PROGRAM.  
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18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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21 *SECTION 1. Arkansas Code Title 20, Chapter 10 is amended to add*  
22 *an*  
23 *additional subchapter to read as follows:*

24 *Subchapter 21. Arkansas Options Counseling for Long-Term Care Program.*

25 *20-10-2101. Definitions.*

26 *As used in this subchapter:*

27 *(1) "Long-term care facility" means a nursing facility or a*  
28 *licensed level II assisted living facility;*

29 *(2) "Medicaid" means the medical assistance program established*  
30 *under § 20-77-101 et seq.;*

31 *(3) "Nursing facility" has the same meaning as in § 20-10-1401;*

32 *(4) "Options counseling for long-term care" means the process*  
33 *of providing service under the Arkansas Options Counseling for Long-Term Care*  
34 *Program; and*

35 *(5) "Representative" means a family member, attorney, hospital*  
36 *social worker, or any other person chosen by an individual to act on behalf*



1 of the individual:

2 (A) Seeking a long-term care consultation; or

3 (B) Admitted to a long-term care facility January 1, 2008,

4 or later.

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6 20-77-2102. Admissions.

7 (a) A long-term care facility shall notify the Office of Long-Term Care  
8 no later than the next business day of all admissions.

9 (b) Notification shall be made in the manner prescribed by the office.

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11 20-10-2103. Arkansas Options Counseling for Long-Term Care Program -  
12 Creation - Administration.

13 (a) The Arkansas Options Counseling for Long-Term Care Program is  
14 created within the Department of Health and Human Services.

15 (b) The program shall provide individuals or their representatives,  
16 or both, with long-term care consultations that shall include information  
17 about, at a minimum:

18 (A) Long-term care options and costs;

19 (B) An assessment of an individual's functional  
20 capabilities; and

21 (C) The conduct of all or part of a professional review,  
22 assessment, and determination of appropriate long-term care options.

23 (c) The program shall be administered by the department.

24  
25 20-10-2104. Eligibility.

26 Each individual in the following categories may be provided with an  
27 options counseling for long-term care consultation:

28 (1) An individual admitted to a long-term care facility  
29 regardless of payment source;

30 (2) A long-term care facility resident who applies for Medicaid;

31 (3) An individual who requests a long-term care consultation.

32  
33 20-10-2105. Consultations - Timing - Content - Reporting.

34 (a) An options counseling for long-term care consultation required  
35 under this subchapter may be provided at any time, including either before or  
36 after the individual who is the subject of a long-term care consultation has

1 been admitted to a long-term care facility.

2 (b) The information provided through a long-term care consultation  
3 under this subchapter shall address all of the following:

4 (1) The availability of long-term care options that are open to  
5 the individual;

6 (2) Sources and methods of both public and private payment for  
7 long-term care services;

8 (3) Factors to consider when choosing among the available  
9 programs, services, and benefits; and

10 (4) Opportunities and methods for maximizing the independence  
11 and self-reliance of the individual, including support services provided by  
12 the individual's family, friends, and community.

13 (c) An individual's long-term care consultation may include an  
14 assessment of the individual's functional capabilities and may be provided  
15 concurrently with any assessment required by the Department of Health and  
16 Human Services.

17 (d)(1) At the conclusion of an individual's long-term care  
18 consultation, the department shall provide the individual or the individual's  
19 representative with a summary of options and resources available to meet the  
20 individual's needs.

21 (2) Even though the summary may specify that a source of long-  
22 term care other than care in a long-term care facility is appropriate and  
23 available, the individual is not required to seek an alternative source of  
24 long-term care and may be admitted to or continue to reside in a long-term  
25 care facility.

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27 20-77-2106. Rules.

28 The Director of the Department of Health and Human Services shall adopt  
29 rules necessary to implement and administer this subchapter, including  
30 without limitation:

31 (1) Procedures for a long-term care facility to notify the Office  
32 of Long Term Care of admissions; and

33 (2)(A) Procedures by which a person in a long-term care  
34 facility may decline options counseling for long-term care.

35 (B) These procedures shall include:

36 (i) A form promulgated by the Department of Health

1 and Human Services for use by a long-term care facility; and

2 (ii) The form shall be limited to one (1) page and  
3 shall:

4 (a) Be orally read to the resident or, if  
5 applicable, the resident's representative by long-term care facility staff  
6 except as provided in this subdivision;

7 (b) List the date;

8 (c) State the name of the resident or, if  
9 applicable, the resident's representative;

10 (d) Contain checkboxes indicating that:

11 (1) The office was notified of the  
12 admission;

13 (2) The form was not read orally to the  
14 resident or resident's representative because the resident lacks decisional  
15 capacity and does not have a representative; and

16 (3) The resident or the resident's  
17 representative declined the options counseling for long-term care;

18 (e) Contain a statement and an acknowledgment  
19 that options counseling for long-term care is an optional program and may be  
20 declined by execution of the form;

21 (f) Be signed by the resident, or if  
22 applicable, the resident's representative; and

23 (g) Be retained by the long-term care facility  
24 in the resident's admission's file for eighteen (18) months or until  
25 the next standard survey, whichever is longer.

26  
27 20-77-2107. Fees

28 (a) After the first three (3) failures of a long-term care facility to  
29 complete the form required under § 20-77-2106 in any calendar year, the  
30 Department of Health and Human Services shall assess a fee against the long-  
31 term care facility of twenty-five dollars (\$25.00) for each failure beyond  
32 three (3), with an annual maximum fee of one thousand two hundred dollars  
33 (\$1,200).

34 (b) A long-term care facility assessed a fee under this section may  
35 appeal the assessment under § 20-10-208.

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*/s/ S. Prater, et al*