

State of Arkansas
93rd General Assembly
Regular Session, 2021

A Bill

HOUSE BILL 1622

By: Representative M. Gray

By: Senator Flippo

For An Act To Be Entitled

AN ACT CONCERNING THE AUTHORITY OF THE ATTORNEY
GENERAL TO COMPLY WITH FEDERAL REGULATIONS; AND FOR
OTHER PURPOSES.

Subtitle

CONCERNING THE AUTHORITY OF THE ATTORNEY
GENERAL TO COMPLY WITH FEDERAL
REGULATIONS.

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

SECTION 1. Arkansas Code § 5-28-101, concerning definitions used in regard to abuse of adults, is amended to add additional subdivisions to read as follows:

(16) "Board and care facility" means a residential setting including without limitation a long-term care facility or other facility that receives payment, regardless of whether the payment is made under Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq., from or on behalf of two (2) or more unrelated adults who reside in the residential setting, and for whom one (1) or both of the following is provided:

(A) Nursing care services provided by, or under the supervision of, a registered nurse, licensed practical nurse, or licensed nursing assistant; or

(B) A substantial amount of personal care services; and

(17) "Substantial amount of personal care services" means services provided that assist the adults who reside at the facility with the



activities of daily living in any amount greater than eighty percent (80%) of the maximum hours authorized by law, including assistance in personal hygiene, dressing, bathing, eating, toileting, ambulation, transfer, positioning, self-medication, body care, travel to medical services, essential shopping, meal preparation, laundry, and housework.

SECTION 2. Arkansas Code § 5-28-107(a), concerning investigations by the Attorney General and the Department of Human Services, is amended to read as follows:

(a) The office of the Attorney General has concurrent jurisdiction with local law enforcement agencies and the Department of Human Services to investigate cases of suspected adult maltreatment of an adult endangered person or an adult impaired person residing in a board and care facility, an adult endangered person or an adult impaired person who is residing in a long-term care facility certified under Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq., or a person or adult impaired person who is receiving medical assistance under Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq., as part of the Arkansas Medicaid Program as defined in § 5-55-102 in a noninstitutional or other setting.

SECTION 3. Arkansas Code § 12-12-1703, concerning definitions used in regard to the Adult and Long-Term Care Facility Resident Maltreatment Act, is amended to add a new subdivision to read as follows:

(23) "Board and care facility" means the same as defined in § 5-28-101.

SECTION 4. Arkansas Code § 12-12-1706(a), concerning civil penalties, is amended to read as follows:

(a)(1) ~~The State of Arkansas and the~~ Attorney General may institute a civil action on behalf of the State of Arkansas against any long-term care facility caregiver or board and care facility caregiver necessary to enforce any provision of this subchapter.

(2) Notwithstanding any criminal penalties assessed, any caregiver against whom any civil judgment is entered as the result of a civil action brought by the State of Arkansas through the Attorney General on a complaint alleging that caregiver to have abused, neglected, or exploited an

endangered person or an impaired person in a board and care facility or in a long-term care facility certified under Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq., as it existed on January 1, 2005, shall be subject to pay a civil penalty:

(A) Not to exceed ten thousand dollars (\$10,000) for each violation judicially found to have occurred; or

(B) Not to exceed fifty thousand dollars (\$50,000) for the death of a long-term care facility resident that results from a single violation.

(3)(A) The Attorney General shall not be precluded from recovering civil penalties under subdivision (a)(2)(A) of this section for the death of a person that results from multiple violations.

(B) However, the Attorney General may not recover civil penalties under both subdivisions (a)(2)(A) and (B) of this section.

APPROVED: 4/8/21