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A Bill

DRAFT JMB/JMB
SENATE BILL

By: Senator B. King

Filed with: Arkansas Legislative Council
pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

AN ACT TO ELIMINATE THE HEALTH SERVICES PERMIT AGENCY
AND THE HEALTH SERVICES PERMIT COMMISSION; TO INFORM
INDIVIDUALS OF HOME HEALTH OPTIONS BEFORE ENTERING A
LONG-TERM CARE FACILITY; AND FOR OTHER PURPOSES.

Subtitle

TO ELIMINATE THE HEALTH SERVICES PERMIT
AGENCY AND THE HEALTH SERVICES PERMIT
COMMISSION; AND TO INFORM INDIVIDUALS OF
HOME HEALTH OPTIONS BEFORE ENTERING A
LONG-TERM CARE FACILITY.

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

SECTION 1. DO NOT CODIFY. ABOLISH AND TRANSFER OF THE HEALTH SERVICES
PERMIT AGENCY AND THE HEALTH SERVICES PERMIT COMMISSION.

(a)(1) The Health Services Permit Agency and the Health Services
Permit Commission are abolished and transferred to the Department of Health
by a type 3 transfer under § 25-2-106.

(2) For purposes of this act, the Department of Health shall be
considered a principal department established by Acts 1971, No. 38.

(b)(1) All authority, powers, duties, and functions as established by
law for the Health Services Permit Agency and the Health Services Permit
Commission, including all purchasing, budgeting, fiscal, accounting, human
resources, payroll, legal, information systems, maintenance, program support,

administrative support, and other management functions are abolished and transferred to the Department of Health, except as specified in this act.

(2)(A) All records, personnel, property, unexpended balances of appropriations, allocations, or other funds are transferred to the Department of Health.

(B) All funds shall be deposited into the Department of Health Fund.

(3) All powers, duties, and functions, including without limitation rulemaking, licensing, promulgation of rules, rates, and standards, and the rendering of findings, orders, and adjudications, as established by law for the Health Services Permit Agency and the Health Services Permit Commission, are abolished, except as specified by this act.

(c) The Arkansas Code Revision Commission shall make appropriate name changes in the Arkansas Code to implement this act.

SECTION 2. Arkansas Code Title 20, Chapter 10, Subchapter 1, is amended to add an additional section to read as follows:

20-10-113. Discussion of home health options.

(a) Before an individual enters a long-term care facility, the individual and his or her guardians shall be counseled regarding home and community health options.

(b) If an individual and his or her guardians elect to pursue home and community health options instead of entering a long-term care facility, a penalty shall not be assessed against the individual if the individual later needs or elects to enter a long-term care facility.

SECTION 3. Arkansas Code § 9-28-407(a)(3), concerning licenses required for a child welfare agency, is amended to read as follows:

(3) ~~Any~~ A child welfare agency capacity licensed or permitted by the board as of March 1, 2003, whether held by the original licensee or by a successor in interest to the original licensee, is exempted from:

(A) Obtaining any license or permit from the Office of Long-Term Care of the Division of Medical Services of the Department of Human Services;

~~(B) Obtaining any permit from the Health Services Permit Agency or the Health Services Permit Commission to operate at the capacity licensed by the board as of March 1, 2003; and~~

~~(C)~~ Obtaining any permit from the agency or the commission to operate at any future expanded capacity serving only non-Arkansas residents unless a permit is required by federal law or regulation.

SECTION 4. Arkansas Code § 20-7-117, concerning hospice services, is amended to read as follows:

20-7-117. Hospices.

(a) There is created within the Department of Health a State Hospice Office, to be administered in a division of the department to be designated by the Director of the Department of Health.

(b)(1) The office shall:

(A) Coordinate the care of terminally ill persons with all existing agencies, programs, and facilities;

(B) Implement rules, regulations, and standards for hospice care in general agreement with guidelines of the National Hospice and Palliative Care Organization and the Hospice and Palliative Care Association of Arkansas and in compliance with the Centers for Medicare & and Medicaid Services;

(C) Provide technical assistance and information to developing hospices;

(D) Maintain a central storehouse of information and reference materials relating to the hospice concept and disseminate this to programs and individuals on request in an equitable manner and accept and respond to inquiries relating to hospice; and

(E) Assist the Arkansas State Hospice Association in developing the hospice concept in this state and networking hospice programs with existing medical communities and human service facilities.

(2) All functions and duties of the office shall be carried out in accordance with the laws of Arkansas and the regulations of ~~the Health Services Permit Agency, the Health Services Permit Commission, and the~~ Centers for Medicare & and Medicaid Services.

~~(c)(1) The regulations and requirements of the Health Services Permit Agency and the Health Services Permit Commission shall be revised to include~~

~~separate permit of approval categories of healthcare facilities entitled “hospice facilities” and “hospice agencies” and to develop criteria for granting the permits of approval for hospice facilities and for hospice agencies for which applications shall be filed in accordance with the criteria.~~

~~(2) A hospice facility or hospice agency shall not convert its licensure to any other license.~~

~~(d)(c)~~ As used in this section, “hospice” or “hospice program” means an autonomous, centrally administered, medically directed, coordinated program providing a continuum of home, outpatient, and homelike inpatient care for the terminally ill patient and the patient’s family, and which employs an interdisciplinary team to assist in providing palliative and supportive care to meet the special needs arising out of the physical, emotional, spiritual, social, and economic stresses ~~which~~ that are experienced during the final stages of illness and during dying and bereavement. The care shall be available twenty-four (24) hours a day, seven (7) days a week, and provided on the basis of need, regardless of ability to pay.

~~(e)(d)~~ The licensure fee for a hospice shall be an annual fee of five hundred dollars (\$500).

SECTION 5. Arkansas Code § 20-7-308 is amended to read as follows:

20-7-308. Repealer.

All laws and parts of laws in conflict with this subchapter are repealed, ~~except that nothing in this subchapter shall be interpreted to repeal any provision which authorizes the Health Services Permit Agency to gather such data as may be necessary to conduct permit of approval activities.~~

SECTION 6. Arkansas Code Title 20, Chapter 8, Subchapter 1, is repealed.

~~Subchapter 1 — Health Services Permit Agency~~

~~20-8-101. Definitions.~~

~~As used in this subchapter:~~

~~(1) “Agency” means the Health Services Permit Agency;~~

~~(2) "Category of services" or "health services" means "home healthcare services" as defined by § 20-10-801;~~

~~(3) "Commission" means the Health Services Permit Commission;~~

~~(4) "Conversion of services" means an alteration of the category of services offered by a health facility;~~

~~(5) "Director" means the Director of the Health Services Permit Agency;~~

~~(6)(A) "Health facility" means "long-term care facility" as defined by § 20-10-101 or "home healthcare services agency" as defined by § 20-10-801.~~

~~(B) "Health facility" shall not mean and nothing in this subchapter shall be deemed to require a permit of approval for or to otherwise regulate in any manner the licensure of:~~

~~(i) A "hospital" as defined by and licensed pursuant to § 20-9-201, except when a hospital seeks to add long-term care beds or to convert acute beds to long-term care beds or to add home health services pursuant to a letter of intent filed with the Department of Health after February 15, 1993, or to expand home health services pursuant to a letter of intent filed with the Department of Health after February 15, 1993;~~

~~(ii) Offices of private physicians and surgeons;~~

~~(iii) Outpatient surgery or imaging centers;~~

~~(iv) Post-acute head injury retraining and residential care facilities or establishments operated by the federal government or any agency thereof;~~

~~(v) Free-standing radiation therapy centers;~~

~~(vi) Expansion, not to exceed fifteen (15) beds, of the twenty-five-bed nonprofit intermediate care facility for individuals with developmental disabilities that provides transitional rehabilitation for pediatric patients;~~

~~(vii) Residences for four (4) or fewer individuals with developmental disabilities who receive support and services from nonprofit providers currently licensed by the Division of Developmental Disabilities Services of the Department of Human Services;~~

~~(viii) Any facility which is conducted by and for those who rely exclusively upon treatment by prayer for healing in accordance with the tenets or practices of any recognized religious denomination; or~~

~~(ix) Any bed or facility used to provide care to delinquent juveniles committed into the care of the Division of Youth Services.~~

~~(C) "Health facility" shall not include offices of private physicians and surgeons, outpatient surgery or imaging centers, establishments operated by the federal government or any of its agencies, free standing radiation therapy centers, or any facility which is conducted by and for those who rely exclusively upon treatment by prayer alone for healing in accordance with the tenets or practices of any recognized religious denomination; and~~

~~(7) "Transitional rehabilitation" means rehabilitation that typically results in discharge within twenty four (24) months after the date of admission.~~

~~20-8-102. Health Services Permit Commission — Creation — Members — Meetings.~~

~~(a) There is established the Health Services Permit Commission.~~

~~(b) The commission shall be composed of the following membership appointed by the Governor and confirmed by the Senate:~~

~~(1) A practicing physician;~~

~~(2) A representative of the Department of Health;~~

~~(3) A member of the Arkansas Hospital Association;~~

~~(4) A member of the Arkansas Health Care Association;~~

~~(5) A member of the Arkansas chapter of AARP, Inc.;~~

~~(6) A member of the HomeCare Association of Arkansas;~~

~~(7) A consumer knowledgeable in business health insurance;~~

~~(8) A member of the Arkansas Residential Assisted Living Association; and~~

~~(9) A member of the Hospice and Palliative Care Association of Arkansas.~~

~~(c)(1) All appointments shall be for four-year terms.~~

~~(2) No member shall be appointed to serve more than two (2) consecutive full terms.~~

~~(d) The members shall serve without pay, but those members not employed by the State of Arkansas may receive expense reimbursement in accordance with § 25-16-901 et seq.~~

1 ~~(e) The commission shall meet at least quarterly and at such other~~
2 ~~times as necessary to carry out its duties under this subchapter. The~~
3 ~~commission shall elect one (1) of its members as chair, and by appropriate~~
4 ~~adoption of bylaws and rules, may provide for the time, place, and manner of~~
5 ~~calling its meetings.~~

6
7 ~~20-8-103. Health Services Permit Commission — Powers and duties.~~

8 ~~(a) The Health Services Permit Commission shall evaluate the~~
9 ~~availability and adequacy of health facilities and health services as they~~
10 ~~relate to long term care facilities and home healthcare service agencies in~~
11 ~~this state.~~

12 ~~(b) The commission shall designate those locales or areas of the state~~
13 ~~in which, due to the requirements of the population or the geography of the~~
14 ~~area, the health service needs of the population are underserved.~~

15 ~~(c) The commission may specify, within locales or areas, categories of~~
16 ~~health services which are underserved or overserved due to the composition or~~
17 ~~requirements of the population or the geography of the area.~~

18 ~~(d) The commission shall develop policies and adopt criteria,~~
19 ~~including time limitations, to be utilized by the Health Services Permit~~
20 ~~Agency in the review of applications and the issuing of permits of approval~~
21 ~~for a long term care facility or a home healthcare service agency as provided~~
22 ~~in this subchapter.~~

23 ~~(e) The commission may define certain underserved locales or areas or~~
24 ~~categories of services within underserved locales or areas to be exempt for~~
25 ~~specified periods of time from the permit of approval requirement.~~

26 ~~(f) The commission may set application fees for permit of approval~~
27 ~~applications to be charged and collected by the agency.~~

28 ~~(g)(1) Upon appeal by the applicant or an interested party, the~~
29 ~~commission shall conduct hearings on decisions by the agency within ninety~~
30 ~~(90) days of the agency decision. The commission shall render its final~~
31 ~~decision within fifteen (15) days of the close of the hearing. Failure of the~~
32 ~~commission to take final action within these time periods shall be considered~~
33 ~~a ratification of the agency decision and shall constitute the final decision~~
34 ~~of the commission from which an appeal to circuit court may be filed.~~

1 ~~(2) Neither a competitor of a successful applicant for a permit~~
2 ~~of approval nor any other party shall have the right to appeal the~~
3 ~~commission's decision to grant a permit of approval.~~

4
5 ~~20-8-104. Health Services Permit Agency — Powers and duties.~~

6 ~~(a) There is created and established the Health Services Permit~~
7 ~~Agency, which shall be an independent agency under the supervision and~~
8 ~~control of the Governor.~~

9 ~~(b) The agency shall possess and exercise such duties and powers as~~
10 ~~necessary to implement the policy and procedures adopted by the Health~~
11 ~~Services Permit Commission.~~

12 ~~(c) The agency shall review all applications for permits of approval~~
13 ~~and approve or deny the application within ninety (90) days from the date the~~
14 ~~application is deemed complete and submitted for review.~~

15 ~~(d) The State of Arkansas shall not participate in the capital~~
16 ~~expenditures review program, otherwise known as the 1122 Program, unless it~~
17 ~~becomes mandatory for continuation in federal programs authorized under Title~~
18 ~~V of the Social Security Act, 42 U.S.C. § 701 et seq., Title XIV of the~~
19 ~~Social Security Act, 42 U.S.C. § 1351 et seq., and Title XVII of the Social~~
20 ~~Security Act, 42 U.S.C. § 1391 et seq., for all states.~~

21 ~~(e) The agency shall assist the commission in the performance of its~~
22 ~~duties under this subchapter.~~

23
24 ~~20-8-105. Director.~~

25 ~~There shall be a Director of the Health Services Permit Agency, who~~
26 ~~shall be the executive head of the Health Services Permit Agency. The~~
27 ~~director shall be appointed by the Governor, subject to confirmation by the~~
28 ~~Senate, and shall serve at the pleasure of the Governor.~~

29
30 ~~20-8-106. Health Services Program — Permits generally.~~

31 ~~(a)(1) A permit of approval shall not be required by the Health~~
32 ~~Services Permit Agency or the Health Services Permit Commission for any~~
33 ~~applicant to qualify for a Class B license, as provided in § 20-10-801 et~~
34 ~~seq., to operate a home healthcare services agency, if the home healthcare~~
35 ~~services agency was serving patients on or before June 30, 1988, and if the~~

~~home healthcare services agency serves the residents of the county where the principal office is located.~~

~~(2) Nursing home applications under review by the Health Services Permit Agency on June 2, 1987, are considered under the provisions of this subchapter under updated standards on a county by county basis.~~

~~(3)(A) Beginning July 1, 2005, the Health Services Permit Agency may not accept applications for permits of approval for the construction of new residential care facilities.~~

~~(B) Applications for replacement of residential care facilities may not be accepted and processed after July 1, 2005.~~

~~(C) However, applications for replacement of residential care facilities shall be accepted for residential care facilities of sixteen (16) beds or fewer but only if the number of beds required for replacement is less than or equal to the number of beds for which the residential care facility was licensed before the application for replacement.~~

~~(b)(1)(A) The alteration or renovation of a health facility having an associated capital expenditure of less than one million dollars (\$1,000,000) for nursing homes and not resulting in additional bed capacity shall not require a permit of approval.~~

~~(B) However, the Health Services Permit Agency shall not allow hospital acute care beds to be converted to or allow their license classification to be changed to long-term care beds without going through the permit of approval process.~~

~~(2) Permits, legal title, and right of ownership may be transferred with the approval of the commission if the entity presently holding the permit, legal title, or right of ownership has tangible assets of at least two thousand five hundred dollars (\$2,500) that will be transferred with the permit, legal title, or right of ownership.~~

~~(3) The application for the permit of approval shall include, but need not be limited to, such information as is necessary to determine:~~

~~(A) Whether the proposed project is needed or projected as being necessary to meet the needs of the locale or area in terms of the health care required for the population or geographic region;~~

~~(B) Whether the proposed project can be adequately staffed and operated when completed;~~

1 ~~(C) Whether the proposed project is economically feasible;~~
2 and

3 ~~(D) Whether the project will foster cost containment~~
4 ~~through improved efficiency and productivity.~~

5 ~~(e) If the application is granted, the Health Services Permit Agency~~
6 ~~shall issue a permit of approval, if it finds that the proposed project meets~~
7 ~~the criteria for approval as set by the commission. If the application is~~
8 ~~denied, the Health Services Permit Agency shall send written notice of the~~
9 ~~denial to the applicant which sets forth the criteria that the proposed~~
10 ~~project failed to meet.~~

11 ~~(d) Any applicant or interested party seeking review of a final Health~~
12 ~~Services Permit Agency decision regarding permits of approval, movement of~~
13 ~~beds, or transfer of permits of approval shall file a written appeal for~~
14 ~~hearing before the commission on an approved form within thirty (30) days of~~
15 ~~the receipt of the Health Services Permit Agency decision.~~

16 ~~(e) Appeals to the commission shall be conducted in accordance with~~
17 ~~the Arkansas Administrative Procedure Act, § 25-15-201 et seq.~~

18
19 ~~20-8-107. Expansion of facilities or services.~~

20 ~~(a) Unless otherwise provided in this subchapter, all health~~
21 ~~facilities seeking to add new beds or home health services or to expand~~
22 ~~existing bed capacity or home health services shall apply for a permit~~
23 ~~approving additional beds or services or expanded bed capacity or services~~
24 ~~pursuant to procedures and criteria promulgated by the Health Services Permit~~
25 ~~Commission.~~

26 ~~(b) The commission may authorize the Health Services Permit Agency to~~
27 ~~enjoin construction or expansion of existing facilities of any project~~
28 ~~commenced in violation of this subchapter through an action filed in the~~
29 ~~circuit court of the judicial district in which the project is located.~~

30 ~~(c) In no event shall the requirements of this subchapter apply to any~~
31 ~~facility licensed or approved as of March 1, 2003, by the Child Welfare~~
32 ~~Agency Review Board pursuant to the Child Welfare Agency Licensing Act, § 9-~~
33 ~~28-401 et seq., and as specifically exempted by § 9-28-407(a)(3).~~

34 ~~(d) Beginning July 1, 2005, the Health Services Permit Agency may not~~
35 ~~accept applications or requests for permits of approval to add new beds or to~~
36 ~~expand existing bed capacity of residential care facilities.~~

~~20-8-108. Fees and fines.~~

~~All fees and fines collected under this subchapter shall be deposited into the Miscellaneous Agencies Fund Account to be used exclusively for the maintenance and operation of the Health Services Permit Agency.~~

~~20-8-109. Approval of new projects — Repeal of Acts 1975, No. 558, § 5 — Transfer of duties.~~

~~(a) All projects requiring approval under the Certificate of Need Program as established by Acts 1975, No. 558, § 5 [repealed], except free-standing radiation therapy centers, shall not be instituted or commenced after April 4, 1987, except upon application for and receipt of approval from the Health Services Permit Agency utilizing the same criteria and procedures in existence prior to April 4, 1987.~~

~~(b) As used in this section, commence construction means the approval of project financing or the actual movement onto the site of building materials and equipment by the principal contractor.~~

~~(c) Two hundred ten (210) days after April 4, 1987, Acts 1975, No. 558, § 5, as amended, is repealed. On and after the two hundred eleventh day following April 4, 1987, all projects requiring approval under § 20-8-107 shall not be instituted or commenced except upon application for and receipt of a permit of approval as set forth in this subchapter, and, during this period of time, all duties and responsibilities of the State Health Planning and Development Agency and the Statewide Health Coordinating Council are transferred to the Health Services Permit Agency established under this subchapter. Any project not requiring approval under this subchapter, even though covered under Acts 1975, No. 558, § 5 [repealed], may be commenced after April 4, 1987.~~

~~(d) The Health Services Permit Agency shall process all applications or certificates of need for intermediate care facilities for the individuals with developmental disabilities with fifteen (15) or fewer beds which were pending on April 4, 1987, and shall for a period of thirty (30) days after April 4, 1987, accept additional applications for such facilities. The applications shall be processed utilizing the criteria and procedures in existence prior to April 4, 1987, and in addition the Health Services Permit~~

1 ~~Agency shall consider as a primary factor the experience of each applicant in~~
2 ~~serving the developmentally disabled population.~~

3
4 ~~20-8-110. Collection and dissemination of health data.~~

5 ~~(a) The Health Services Permit Agency shall act as a statewide health~~
6 ~~data clearinghouse for the acquisition and dissemination of data from~~
7 ~~healthcare providers, the Arkansas Medicaid Program, third party payors,~~
8 ~~state agencies, and other appropriate sources in furtherance of this section.~~

9 ~~(b) All state agencies having information with regard to health~~
10 ~~matters shall make available to the Health Services Permit Agency such health~~
11 ~~data as is necessary for the Health Services Permit Commission to carry out~~
12 ~~its responsibilities.~~

13 ~~(c) All health facilities requiring a permit of approval by the state~~
14 ~~shall submit annually a report of utilization statistics as may be required~~
15 ~~by the Health Services Permit Agency.~~

16 ~~(d) The Insurance Commissioner shall require all third party payors,~~
17 ~~including, but not limited to, licensed insurers, medical and hospital~~
18 ~~service corporations, health maintenance organizations, and self-funded~~
19 ~~employee health plans, to provide the commission with claims data for health~~
20 ~~matters.~~

21 ~~(e) State agencies which survey hospitals, home health agencies,~~
22 ~~outpatient surgery centers, or nursing homes for licensure or certification~~
23 ~~shall annually report to the Health Services Permit Agency on the surveys of~~
24 ~~the various facilities. The annual report shall list facilities by name with~~
25 ~~patient care citations and numbers of serious patient injuries per year by~~
26 ~~facility.~~

27 ~~(f) The Director of the Health Services Permit Agency shall be~~
28 ~~empowered to release data collected pursuant to this section, subject to the~~
29 ~~following limitations:~~

30 ~~(1) Data released shall not include any information which could~~
31 ~~be used to identify any individual patient; and~~

32 ~~(2) Data released shall not include any information which could~~
33 ~~be used to associate any of the data with any specific third party payor.~~

34 ~~(g) The director shall prescribe such rules and regulations as may be~~
35 ~~necessary to carry out the purpose of this section.~~

~~(h)(1) With the advice of the commission, the director shall compile and publish summaries of health data collected by the Health Services Permit Agency.~~

~~(2)(A) The director shall prepare an annual report of the Health Services Permit Agency's findings and submit the report to the Governor, the General Assembly, and the House Committee on Public Health, Welfare, and Labor and the Senate Committee on Public Health, Welfare, and Labor or appropriate subcommittees thereof.~~

~~(B) The Health Services Permit Agency shall provide assistance to the House Committee on Public Health, Welfare, and Labor and the Senate Committee on Public Health, Welfare, and Labor in the development of information necessary in the examination of health care issues.~~

~~(i)(1) The Health Services Permit Agency may impose a fine on health facilities requiring a permit of approval for failure to timely submit reports of statistics as required by the Health Services Permit Agency.~~

~~(2) The Health Services Permit Agency may impose a fine of:~~

~~(A) Up to one hundred dollars (\$100) for a report more than thirty (30) days late;~~

~~(B) Two hundred fifty dollars (\$250) for a report more than sixty (60) days late; and~~

~~(C) Five hundred dollars (\$500) for a report more than ninety (90) days late.~~

~~20-8-111. Transfer of Developmental Disabilities Planning Council attributes to other agency.~~

~~The Governor may at any time transfer all personnel, appropriations, fund balances, and authorized positions, and the powers, duties, and personnel of the Developmental Disabilities Planning Council to any other designated agency of the state which meets the requirements of Pub. L. No. 101-496 [repealed].~~

~~20-8-112. Additional transfer of Developmental Disabilities Planning Council attributes to other agency.~~

~~The Governor may at any time transfer all the powers, duties, personnel, appropriations, fund balances, and authorized positions of the~~

~~Developmental Disabilities Planning Council to any other designated agency of the state which meets the requirements of Pub. L. No. 103-230 [repealed].~~

~~20-8-113. Findings.~~

~~The General Assembly finds and determines that:~~

~~(1) The Division of Youth Services of the Department of Human Services is obligated by law to provide appropriate care to juveniles adjudicated delinquent and committed to the division's custody;~~

~~(2) The division, pursuant to judicial decrees, assumes custody of delinquent juveniles with little or no notice;~~

~~(3) The nature of the criminal conduct engaged in by the juvenile may create the necessity to segregate these juveniles within treatment facilities, thereby denying the division otherwise available beds;~~

~~(4) The division must secure sufficient facilities for the care of delinquent juveniles in its custody;~~

~~(5) The need for these facilities may vary substantially from the needs anticipated by the Department of Human Services or by the Health Services Permit Commission; and~~

~~(6) No permit of approval should be required for facilities or beds contracted for or otherwise provided for delinquent youth committed to the custody of the division or the beds provided for delinquent youth counted against the authorized beds otherwise provided by a facility or organization with a permit of approval.~~

SECTION 7. Arkansas Code § 20-10-105(a), concerning residential care facility eligible for reimbursement from state revenues, is amended to read as follows:

(a) ~~Any~~ A facility that meets the definition of a residential care facility as defined by the Office of Long-Term Care that has not been licensed or certified by the appropriate state agency or has not received a permit of approval ~~from the Health Services Permit Agency shall not be~~ is not eligible for ~~any~~ reimbursement from state revenues for any services that it offers.

SECTION 8. Arkansas Code § 20-10-813 is amended to read as follows:

20-10-803. Transfer of licenses and permits upon dissolution.

1 Upon the dissolution of any corporation ~~which~~ that on April 14, 1995,
 2 is licensed to provide home ~~health-care~~ healthcare services, the Department
 3 of Health, ~~the Health Services Permit Agency, the Health Services Permit~~
 4 ~~Commission,~~ and any other agency involved may transfer the dissolved
 5 corporation's licenses and permits of approval to a stockholder of the
 6 dissolved corporation, and that stockholder may continue to perform home
 7 ~~health-care~~ healthcare services under the transferred license and permit of
 8 approval.

9
 10 SECTION 9. Arkansas Code § 20-10-902 is amended to read as follows:
 11 20-10-902. Purpose.

12 (a) It is the purpose of this subchapter to develop a mechanism
 13 whereby the concept of receivership can be utilized for the protection of
 14 residents in long-term care facilities.

15 (b) It is the intent of the General Assembly that receivership shall
 16 be a remedy of last resort when all other methods of remedy have failed or
 17 when the implementation of other remedies would be futile.

18 ~~(c) It is not the intent of this subchapter to circumvent the Health~~
 19 ~~Services Permit Program of the Health Services Permit Commission. No~~ A court
 20 or administrative agency shall not interpret the contents of this subchapter
 21 to allow the transfer of beds or the license of a facility under receivership
 22 without approval ~~of the commission as required by § 20-8-101 et seq.~~

23
 24 SECTION 10. Arkansas Code § 20-10-2005 is amended to read as follows:
 25 20-10-2005. Existing unlicensed facilities.

26 (a) Assisted living facilities and residential care facilities that
 27 are unlicensed on April 13, 2005, shall have until March 15, 2006, in which
 28 to apply for an assisted living facility license or residential care facility
 29 license.

30 (b) ~~Any~~ An assisted living facility or residential care facility that
 31 fails to become licensed on or before October 15, 2007, shall be subject to
 32 the provisions of § 20-10-2007.

33 (c)(1) An assisted living facility or residential care facility shall
 34 be exempt from the state permit-of-approval process for purposes of this
 35 section if the facility obtains a license within the time provided in
 36 subsection (b) of this section.

1 (2) After the time provided in subsection (b) of this section,
2 the facility shall comply with the permit-of-approval process and methodology
3 in all other respects.

4 ~~(d) The Office of Long Term Care shall report to the Health Services~~
5 ~~Permit Agency when a facility has been licensed without a state permit of~~
6 ~~approval under this section.~~

7 ~~(e)~~ The agency shall take account of the new beds in its counting for
8 need purposes under the permit-of-approval methodology.

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11 Referral requested by: Senator Bryan King
12 Prepared by: JMB
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