

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas  
2 82nd General Assembly  
3 Regular Session, 1999  
4

*As Engrossed: S3/11/99*

## A Bill

SENATE BILL 954

5 By: Senator Bearden  
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### For An Act To Be Entitled

9 "AN ACT TO AMEND ARKANSAS CODE 20-10-101, 20-10-201,  
10 AND 20-10-226 TO PROVIDE FOR THE AUTHORITY FOR LONG  
11 TERM CARE FACILITIES TO COMPLY WITH THE LEGAL REQUESTS  
12 OF PARENTS, FAMILIES, AND ATTENDING PHYSICIANS; AND  
13 FOR OTHER PURPOSES. "  
14

### Subtitle

15 "AN ACT TO PROVIDE FOR THE AUTHORITY FOR  
16 LONG TERM CARE FACILITIES TO COMPLY WITH  
17 THE LEGAL REQUESTS OF PARENTS, FAMILIES,  
18 AND ATTENDING PHYSICIANS. "  
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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24 *SECTION 1. Arkansas Code 20-10-101 is amended to read as follows:*  
25 *"20-10-101. Definitions.*

26 *As used in this chapter, unless the context otherwise requires:*

27 *(1) 'Administrator-in-training program' means a program for*  
28 *gaining supervised practical experience in long-term care administration;*

29 *(2) 'Department' means the Department of Human Services;*

30 *(3) 'Clock hour' means a period of contact experience comprising*  
31 *the full sixty (60) minutes;*

32 *(4) 'Long-term care facility administrator' means a person who*  
33 *administers, manages, supervises, or is in general administrative charge of a*  
34 *long-term care facility whether the individual has an ownership interest in*  
35 *the home and whether his functions and duties are shared with one (1) or more*  
36 *individuals;*

1           (5) 'Reciprocity licensing' means a method by which an individual  
2 licensed in good standing in one state may apply for licensure status in  
3 another state, provided the state from which the individual wishes to transfer  
4 has standards comparable to the state to which the individual wishes to  
5 transfer;

6           (6) 'Director' means the Director of the Department of Human  
7 Services;

8           (7) 'Long-term care facility' means a nursing home, residential  
9 care facility, post-acute head injury retraining and residential care  
10 facility, or any other facility which provides long-term medical or personal  
11 care;

12           (8) 'Division' means the appropriate division as determined by  
13 the Director of the Department of Human Services;

14           (9) 'Head injury' means a noncongenital injury to the brain or a  
15 neurological impairment caused by illness, accident, or nondegenerative  
16 etiology;

17           (10) 'Post-acute head injury residential care facility' means a  
18 residential care facility which is not a nursing home and which provides head  
19 injury retraining and rehabilitation for individuals who are disabled because  
20 of head injury and are not in present need of inpatient diagnostic care in a  
21 hospital or related institution;

22           (11) 'Head injury retraining and rehabilitation' means an  
23 individualized program of instruction designed to assist an individual  
24 suffering disability as a result of head injury to reduce the adverse effects  
25 of the disability and improve functioning in activities of daily living and  
26 work-related activities, but which does not include inpatient diagnostic care,  
27 and which may be offered in a residential or day program;

28           (12) 'Post-acute head injury residential care' means a  
29 residential program offering assistance in activities of daily living for  
30 individuals who are disabled because of head injury and are therefore unable  
31 to live independently;

32           (13) 'Sponsor' means legal guardian;

33           (14) 'Residential care facility' means a building or structure  
34 which is used or maintained to provide, for pay on a twenty-four-hour basis, a  
35 place of residence and board for three (3) or more individuals whose  
36 functional capabilities may have been impaired but who do not require hospital

1 or nursing home care on a daily basis but could require other assistance in  
2 activities of daily living.

3 (15) 'Attending physician' means the physician who has primary  
4 responsibility for the treatment and care of the patient;

5 (16) 'Life-sustaining treatment' means any medical procedure or  
6 intervention that, when administered to a qualified patient, will serve only  
7 to prolong the process of dying or to maintain the patient in a condition of  
8 permanent unconsciousness, including but not limited to nutrition and  
9 hydration;

10 (17) 'Physician' means an individual licensed to practice  
11 medicine in this state;

12 (18) 'Qualified patient' means a patient eighteen (18) or more  
13 years of age housed in a long term care facility as defined by this subchapter  
14 who has been determined by the attending physician to be in a terminal  
15 condition or in a permanently unconscious state by the attending physician and  
16 another qualified physician who has examined the patient;

17 (19) 'Terminal condition' means an incurable and irrevocable  
18 condition that, without the administration of life-sustaining treatment, will,  
19 in the opinion of the attending physician, result in death within a relatively  
20 short time; and

21 (20) 'Permanently unconscious' means a lasting condition,  
22 indefinitely without change in which thought, feeling, sensations, and  
23 awareness of self and environment are absent."

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25 SECTION 2. Arkansas Code 20-10-201 is amended to read as follows:

26 "20-10-201. Legislative intent.

27 The General Assembly declares that this act is necessary to assure the  
28 effective and coordinated regulation of long-term care facilities and long-  
29 term care facility administrators within an orderly organizational structure  
30 of government, at such levels of economy as are consistent with the state's  
31 policy of promoting high standards of quality in the services, and to  
32 eliminate overlapping and duplication of effort, and to give the qualified  
33 patient's attending physician, family, legal guardian, health proxy, or  
34 advanced directive the ability to determine the appropriate medical treatment  
35 for the qualified patient without subjecting the long term care facility in  
36 which the patient is currently residing to sanctions by the Office of Long

1 Term Care. "

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3 SECTION 3. Arkansas Code 20-10-226 is amended to read as follows:

4 "20-10-226. Inspections of facilities.

5 The department shall make such inspections as it may prescribe by  
6 regulation. Long term care facilities shall not be cited for deficiencies and  
7 remedies imposed by the Office of Long Term Care wherein the facility  
8 discontinues to provide life sustaining treatment, but only in those instances  
9 where a qualified patient is in a terminal condition or is permanently  
10 unconscious if one of the following conditions is met:

11 (1) The qualified patient's family, legal guardian, or health  
12 proxy refuses to consent to life-sustaining treatment; or

13 (2) The qualified patient's advance directive purports to refuse  
14 life-sustaining treatment; or

15 (3) Where the continuation of treatment would be inconsistent  
16 with the medical orders of the attending physician."

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18 SECTION 4. All provisions of this act of a general and permanent nature  
19 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
20 Revision Commission shall incorporate the same in the Code.

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22 SECTION 5. If any provision of this act or the application thereof to  
23 any person or circumstance is held invalid, such invalidity shall not affect  
24 other provisions or applications of the act which can be given effect without  
25 the invalid provision or application, and to this end the provisions of this  
26 act are declared to be severable.

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28 SECTION 6. All laws and parts of laws in conflict with this act are  
29 hereby repealed.

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31 /s/ Bearden  
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