

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
91st General Assembly
Regular Session, 2017

A Bill

HOUSE BILL 1626

By: Representative Pilkington
By: Senator Flippo

For An Act To Be Entitled

AN ACT TO AMEND THE PROHIBITION OF PHOTOGRAPHY IN
LONG-TERM CARE FACILITIES; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE PROHIBITION OF PHOTOGRAPHY
IN LONG-TERM CARE FACILITIES.

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

SECTION 1. Arkansas Code § 20-10-104 is amended to read as follows:

20-10-104. Photographing prohibited – Exceptions.

(a) Except as provided in subsection (d) or subsection (e) of this section, ~~no~~ a resident of a long-term care facility in this state ~~may~~ shall ~~not~~ be photographed without obtaining prior written consent from the resident or, in cases of incapacity, from the ~~resident's~~ guardian or legal representative of the resident.

(b)(1) ~~Consent shall be obtained for each date that photographs are to be taken~~ When an employee or agent of a long-term care facility photographs a resident under conditions in which consent is required, the evidence of the consent shall be maintained in the file of the resident at the long-term care facility.

(2) The consent described in subdivision (b)(1) of this section shall be continuously effective unless the consent is rescinded in writing by the resident or the guardian or legal representative of the resident.

(c) Failure to obtain consent prior to photographing a resident in a long-term care facility shall be a Class B misdemeanor.



(d) ~~Nothing in this~~ This section ~~shall be construed to~~ does not prevent:

(1) a A person licensed under the Arkansas Medical Practices Act, § 17-95-201 et seq., § 17-95-301 et seq., and § 17-95-401 et seq., from photographing a patient for purposes of medical treatment;

(2) A person licensed by the Arkansas State Board of Nursing from photographing a patient for purposes of medical treatment;

(3) Facility staff or agents from photographing a resident of a long-term care facility on social occasions; or

(4) A photograph by security cameras or other devices for the safety or security of residents.

(e)(1) The photographing of residents is ~~prohibited~~ permitted without written consent from the resident or the ~~resident's~~ guardian or legal representative ~~except~~ of the resident when the photographing is in connection with a survey or investigation made by the Department of Human Services, the Office of the Attorney General, or the United States Department of Health and Human Services, or any agent of the listed entities while in+

~~(A)~~ In the course of:

~~(i)~~ (A) Licensure inspections;

~~(ii)~~ (B) Medicaid certification;

~~(iii)~~ (C) A complaint investigation; or

~~(iv)~~ (D) An investigation of allegations of abuse or neglect of residents or misappropriation of residents' property; ~~or.~~

~~(B)~~ In connection with surveys or investigations made pursuant to law conducted by the:

~~(i)~~ Office of Long-Term Care;

~~(ii)~~ Office of the Attorney General; or

~~(iii)~~ United States Department of Health and Human Services.

(2) Under ~~those~~ the circumstances listed in subdivision (e)(1) of this section, the photographs shall be used only for evidentiary purposes concerning the alleged violations and shall not be released to the media or to the public but shall be made available to the facility if utilized to impose a remedy or to set forth a statement of deficiency.