

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

State of Arkansas  
93rd General Assembly  
Regular Session, 2021

# A Bill

SENATE BILL 568

By: Senator Flippo

## For An Act To Be Entitled

AN ACT TO EXPAND THE REVIEW OF LICENSE APPLICATIONS FOR LONG-TERM CARE FACILITIES; TO ELIMINATE ANNUAL RENEWAL FOR LONG-TERM CARE FACILITY LICENSES; TO REQUIRE NOTIFICATION OF CHANGES IN LONG-TERM CARE FACILITY MANAGEMENT; AND FOR OTHER PURPOSES.

## Subtitle

TO EXPAND THE REVIEW OF LICENSE APPLICATIONS FOR LONG-TERM CARE FACILITIES; TO ELIMINATE ANNUAL RENEWAL FOR LONG-TERM CARE FACILITY LICENSES; AND TO REQUIRE NOTIFICATION OF CHANGES IN LONG-TERM CARE MANAGEMENT.

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

SECTION 1. Arkansas Code § 20-10-224 is amended to read as follows:

20-10-224. License required – Administration by Department of Human Services.

(a) ~~No~~ A long-term care facility or related institution shall not be established, conducted, or maintained in this state without obtaining a license.

(b)(1) By properly promulgating rules, the Department of Human Services may provide for the issuance of provisional long-term care facility licenses and long-term care facility licenses, including the licensure of facilities with specialized wings, units, or rooms for ~~dementia~~ residents with dementia, ~~those suffering from~~ Alzheimer's disease, and other related



conditions.

(2) The licenses shall be effective ~~on a state fiscal year basis and shall expire June 30 of each year, subject to revocation and to annual renewal~~ without expiration unless the license is revoked, suspended, or terminated by the department.

(3)(A) If issued, a provisional license shall be effective upon submission of the application for licensure to the ~~Office of Long-Term Care~~ department.

(B) The provisional license shall remain in effect until the issuance of the long-term care facility license unless the provisional license is revoked, suspended, or terminated by the department.

(c)(1) Applicants for long-term care facility licensure shall file applications under oath with the ~~office~~ department.

(2) Applications shall be signed by the administrator or the owner of the facility.

(3) Applications shall set forth the full name and address of the facility for which licensure is sought and additional information as the ~~office~~ department may require, including without limitation:

(A) Information on the administrator, directors, management company, operator, or other management agent that the applicant or applicants will use to manage the facility;

(B) Information on the owner or owners of the building or other structures that will be used in the operation of the facility;

(C) Information on all other facilities owned, operated, or managed by the applicant or applicants;

(D) Information on all other facilities owned, operated, or managed by the administrator, directors, management company, operator, or other management agent that the applicant or applicants will use to manage the facility; and

(E) Affirmative ~~affirmative~~ evidence of ability to comply with standards, rules, and regulations as may be lawfully prescribed.

(d)(1) ~~No~~ A license shall not be issued ~~or renewed~~ for any long-term care facility unless the applicant has included in the application ~~the name and such other~~ all information required for licensure and disclosure.

(2) This ~~The~~ requirement under subdivision (d)(1) of this section, as well as any other requirement determined appropriate by the

department, shall be in accordance with this section and the guidelines provided by the department.

(e)(1)(A) Whenever ownership of controlling interest in the operation of a facility is sold by the person or persons named in the license to any other person or persons, the buyer shall obtain a license to operate the facility.

(B) The buyer shall notify the department of the sale and apply for a license at least thirty (30) days before the completed sale.

(2)(A) Except as provided by the Arkansas Long-Term Care Facility Receivership Law, § 20-10-901 et seq., the seller shall notify the department at least thirty (30) days before the completed sale.

(B) The seller shall remain responsible for the operation of the facility until such time as a license is issued to the buyer.

(3) The buyer shall be subject to any plan of correction submitted by the previous licensee and approved by the department.

(4) The seller shall remain liable for all penalties assessed against the facility ~~which~~ that are imposed for violations or deficiencies occurring before ~~sale of ownership or operational control~~ the date the department issues the long-term care facility license to the buyer.

(5) The seller shall remain liable for all quality assurance fees and license fees that are assessed to the facility before the date the department issues the long-term care facility license to the buyer.

(6) ~~Before approval of~~ the department may approve the application for licensure of the buyer, the department shall consider and may deny a license based upon ~~the following~~ whether:

(A) ~~Whether the~~ The administrator, officers, directors, or partners management company, operator, or other management agent that the applicant will use to manage the facility ~~have~~ has ever been convicted of a felony;

(B) ~~Whether, within twelve (12) months before the license application, any~~ A facility or facilities owned or operated by the applicant or applicants have been found, after final administrative decision, to have committed a Class A violation;

(C) A facility or facilities owned or operated by the administrator, directors, management company, operator, or other management agent that the applicant or applicants will use to manage the facility ~~have~~

been found, after final administrative decision, to have committed a Class A violation;

~~(D) Whether during the three (3) years before the application, the~~ The applicant or applicants have had a license revoked or suspended; or

~~(E) The administrator, directors, management company, operator, or other management agent that the applicant or applicants will use to manage the facility have had a license revoked;~~

~~(D)(F) Whether the~~ The applicant or applicants have demonstrated to the satisfaction of the department that any other facility owned, operated, or administered by the applicant or applicants has been is and has been in substantial compliance with the standards as set by applicable state and federal law for the previous twelve-month period before application for licensure; or

~~(G) The applicant or applicants have demonstrated to the satisfaction of the department that any other facility owned, operated, or administered by the administrator, directors, management company, operator, or other management agent that the applicant or applicants will use to manage the facility is and has been in substantial compliance with the standards as set by applicable state and federal law.~~

~~(6)(A) Except as provided in subdivision (e)(6)(B) of this section, the buyer shall not be issued a license until the buyer provides the department with proof of payment by the buyer to the seller of a sum equal to the annual fee under subsection (i) of this section.~~

~~(B) The department shall process a renewal application before issuing a license to a buyer if:~~

~~(i) The buyer provides the department with proof of payment by the buyer to the seller of a sum equal to the annual fee under subsection (i) of this section;~~

~~(ii) The sale occurs between March 1 and July 1 of any year;~~

~~(iii) The seller applied for or received a renewal of the license; and~~

~~(iv) The seller paid the annual fee under subsection (i) of this section to the department.~~

(7) Before the department may approve the application for

licensure of the buyer, the seller or the buyer shall pay all outstanding quality assurance fees and license fees.

(8) The department may consider the mitigation of compliance issues by:

(A) An applicant or applicants related to subdivision (e)(6) of this section; and

(B) The administrator, directors, management company, operator, or other management agent that the applicant or applicants will use to manage the facility related to subdivision (e)(6) of this section.

(f)(1) Before issuing a license, or approving the operation of any long-term care facility ~~which~~ that was not licensed at the time of application or any additional bed capacity of a licensed facility, the department shall consider and may deny a license based upon the criteria established in subdivision ~~(e)(5)~~ (e)(6) of this section.

(2) This subsection is not intended to circumvent or alter the requirements set forth in § 20-8-101 et seq.

(g) Except for facilities operated by the State of Arkansas, each long-term care facility shall pay an annual licensure fee in the following amount:

(1) Residential care facilities shall pay an annual fee determined by multiplying five dollars (\$5.00) by the total number of licensed resident beds;

(2) Adult day care and adult day healthcare facilities shall pay an annual fee determined by multiplying five dollars (\$5.00) by the maximum number of persons the facility can serve; and

(3) All other long-term care facilities shall pay an annual fee determined by multiplying ten dollars (\$10.00) by the total licensed resident beds or maximum licensed client population.

(h) Annual licensure fees shall be tendered with each application for a new long-term care facility license and ~~with each long-term care facility license renewal application~~ annually thereafter by the anniversary of the date the department issued the long-term care facility license.

~~(i)(1)~~ Annual licensure fees are payable in one (1) sum.

~~(2) Fees for new licensure applications may be prorated by dividing the total fee by three hundred sixty five (365) and multiplying the result by the number of days from the date the application is approved~~

~~through June 30, inclusive.~~

~~(3) Applications for licensure renewal shall be delivered, or if mailed shall be postmarked, on or before March 1.~~

(j) Any fee not paid when due shall be delinquent and shall be subject to assessment of a ten-percent penalty.

(k)(1) ~~No~~ A license or licensure renewal shall not be issued unless the initial annual licensure fee has been paid in full.

(2) If a long-term care facility fails to pay the annual licensure fee within sixty (60) calendar days of the anniversary of the date the department issued the long-term care facility license, the department may suspend the license until the annual licensure fee is paid in full.

(l) Licenses shall be issued only for the premises and persons named in the application and shall not be transferable.

(m) All funds derived from fees collected pursuant to §§ 20-10-213 – 20-10-228 shall be deposited into the State Treasury and credited to the Division of Economic and Medical Services Administrative Fund to be used for the maintenance and operation of the long-term care facility licensure program.

(n) The department shall not require a license for an adult day care program that is excepted from the definition of "long-term care facility" under § 20-10-101.

(o)(1) If a long-term care facility intends to add, remove, or otherwise change the management company, operator, or other management agent that manages the long-term care facility, the long-term care facility shall notify the department.

(2) The long-term care facility shall notify the department of the change and request approval at least thirty (30) days before the change occurs.

(3) The long-term care facility shall provide the department with the information required to allow the department to evaluate whether the new management company, operator, or other management agent that manages the long-term care facility meets the eligibility criteria set forth in subdivision (e)(6) of this section.

(4)(A) The long-term care facility shall receive approval of the change from the department before the change occurs unless the change is required due to an emergency.

(B) If a change occurs without prior approval from the department due to an emergency, the long-term care facility shall notify the department within ten (10) days of the change.

(5)(A) The department may deny a requested change based on the criteria established in subdivision (e)(6) of this section.

(B) If the department denies a requested change, the long-term care facility may not employ or otherwise use the denied management company, operator, or other management agent.

(p) A long-term care facility is not required to notify or receive approval from the department for a change involving vendors that provide services to the long-term care facility but do not manage the facility.

SECTION 2. Arkansas Code § 20-10-1707(a), concerning licensure of assisted living facilities under the Arkansas Assisted Living Act, is amended to read as follows:

(a)(1) Each assisted living facility in the State of Arkansas shall first obtain a license to operate from the Department of Human Services under § 20-10-224 and the rules promulgated by the department.

(2) The department shall promulgate rules for the licensure and operation of assisted living facilities.

SECTION 3. Arkansas Code § 20-10-2004(a), concerning the licensure of unlicensed long-term care facilities under the Unlicensed Long-Term Care Facilities Act, is amended to read as follows:

(a) Any assisted living facility or residential care facility composed of a building or buildings, section, or distinct part of a building, whether operated for profit or not, shall be licensed as a long-term care facility by the ~~Office of Long-Term Care~~ Department of Human Services under § 20-10-224 and the rules promulgated by the department if the facility:

(1) Houses more than three (3) individuals for a period exceeding twenty-four (24) hours;

(2) Provides meals or other congregate services; and

(3) Either:

(A) Provides supervision of residents; or

(B) Offers or provides assistance with activities of daily living, including, but not limited to:

- (i) Eating;
- (ii) Bathing;
- (iii) Dressing;
- (iv) Grooming;
- (v) Ambulating;
- (vi) Toileting; or
- (vii) Taking medications.