
By: **Delegate Hammen**

Introduced and read first time: January 21, 2002

Assigned to: Environmental Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 12, 2002

CHAPTER 47

1 AN ACT concerning

2 **Nursing Homes - Notice of Closure - Penalties**

3 FOR the purpose of authorizing the Office of Health Care Quality in the Department
4 of Health and Mental Hygiene to impose certain penalties on a nursing home
5 when the nursing home closes without providing a certain notice within a
6 certain period before closure; providing that the nursing home is subject to
7 certain appellate procedures when a civil money penalty is imposed; and
8 generally relating to penalties for failure to provide notice of the closure of a
9 nursing home.

10 BY repealing and reenacting, with amendments,

11 Article - Health - General

12 Section 19-1406

13 Annotated Code of Maryland

14 (2000 Replacement Volume and 2001 Supplement)

15 BY repealing and reenacting, without amendments,

16 Article - Health - General

17 Section 19-1413

18 Annotated Code of Maryland

19 (2000 Replacement Volume and 2001 Supplement)

20 BY adding to

21 Article - Health - General

22 Section 19-1413.1

23 Annotated Code of Maryland

1 (2000 Replacement Volume and 2001 Supplement)

2 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
3 MARYLAND, That the Laws of Maryland read as follows:

4 **Article - Health - General**

5 19-1406.

6 (a) Within 15 days of the request for an appeal by a nursing home, the nursing
7 home shall deposit the amount of the civil money penalty in an interest bearing
8 escrow account, the nursing home shall bear any cost associated with establishing the
9 escrow account, and the account shall be titled in the name of the nursing home and
10 the Department of Health and Mental Hygiene as joint owners.

11 (b) When the Secretary issues the final decision of the Department:

12 (1) If the decision upholds the imposition of the full civil money penalty,
13 the escrow funds will be released to the Department within 15 days from the date of
14 the decision;

15 (2) If the decision upholds the imposition of a civil penalty, but reduces
16 the amount of the civil penalty, the amount due the Department will be released to
17 the Department with accrued interest within 15 days of the date of the decision and
18 the balance will be released to the nursing home within 15 days of the date of the
19 decision; or

20 (3) If the decision reverses the imposition of the civil penalty, the escrow
21 funds will be released to the nursing home within 15 days of the decision.

22 (c) (1) A hearing on the appeal shall be held in accordance with the
23 Administrative Procedure Act, under Title 10, Subtitle 2 of the State Government
24 Article.

25 (2) The Secretary shall have the burden of proof with respect to the
26 imposition of civil money penalties under §§ 19-1404 OR 19-1413.1 of this subtitle.

27 (3) A decision shall be rendered by the Office of Administrative Hearings
28 within 10 working days of the hearing.

29 (d) A nursing home is entitled to a 40% reduction in the amount of the civil
30 money penalty if it waives its right to a hearing within 30 days of the Department's
31 order.

32 19-1413.

33 Each nursing home shall:

34 (1) Establish a procedure to provide for the smooth and orderly transfer
35 of residents in the event of closure;

1 (2) Provide a 30-day notice to residents and their families or guardians
2 prior to closure of the nursing home unless the Department waives the notice
3 requirement;

4 (3) Provide a 15-day notice to residents and their families or guardians
5 prior to termination of public funding unless the Department waives the notice
6 requirement; and

7 (4) Immediately notify, if known, a resident's family or guardian of:

8 (i) An accident involving the resident which results in injury and
9 has the potential for requiring physician intervention;

10 (ii) A significant change in the resident's physical, mental, or
11 psychosocial status; or

12 (iii) A need to alter the resident's treatment significantly.

13 19-1413.1.

14 ~~A PERSON WHO (A) A NURSING HOME THAT VIOLATES § 19-1413(2) OF THIS~~
15 ~~SUBTITLE IS SUBJECT TO:~~

16 ~~(1) A FINE NOT EXCEEDING \$50,000; AND~~

17 ~~(2) THE COST OF REIMBURSING THE OFFICE OF HEALTH CARE QUALITY~~
18 ~~FOR A CIVIL MONEY PENALTY NOT EXCEEDING EXPENSES INCURRED BY THE OFFICE~~
19 ~~OF HEALTH CARE QUALITY IN ENSURING A SMOOTH AND ORDERLY TRANSITION OF~~
20 ~~RESIDENTS, INCLUDING PAYROLL EXPENSES.~~

21 (B) IF A CIVIL MONEY PENALTY IS IMPOSED ON A NURSING HOME UNDER
22 SUBSECTION (A) OF THIS SECTION, THE NURSING HOME IS SUBJECT TO § 19-1406 OF
23 THIS SUBTITLE.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 October 1, 2002.