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By: **Senators Teitelbaum, Britt, and Hafer**  
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Assigned to: Finance

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Committee Report: Favorable with amendments  
Senate action: Adopted  
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CHAPTER 102

1 AN ACT concerning

2 **Assisted Living Facilities - Certification - Third Party Accreditation**  
3 **Programs and Managers**

4 FOR the purpose of ~~requiring~~ authorizing the Department of Health and Mental  
5 Hygiene to ~~establish and enforce certain standards to certify third party assisted~~  
6 ~~living accreditation programs; requiring certain standards to authorize the~~  
7 ~~acceptance of a certain survey as sufficient for compliance with certain licensure~~  
8 ~~requirements; requiring that a certain survey be available for public review;~~  
9 ~~requiring the assisted living program manager of a certain licensed facility to be~~  
10 ~~certified by the Department; requiring the Department to approve a certain~~  
11 ~~certification curriculum that includes certain training areas; providing that~~  
12 ~~certain uncertified assistant living program managers obtain a certain~~  
13 ~~certification by a certain date; providing for the renewal period of a certain~~  
14 ~~certification; requiring the Department to adopt certain regulations; accept all~~  
15 ~~or part of a certain accrediting report as meeting the State licensing~~  
16 ~~requirements for the renewal of a license to operate an assisted living facility~~  
17 ~~program; prohibiting the Department from accepting all or part of a certain~~  
18 ~~accrediting report as meeting the State licensing requirements for an initial~~  
19 ~~license to operate an assisted living facility program; requiring an assisted~~  
20 ~~living facility program to submit a certain report to the Department within a~~  
21 ~~certain time period; requiring a certain report to be made available to the public~~  
22 ~~on request; authorizing the Secretary of Health and Mental Hygiene to inspect~~  
23 ~~certain assisted living facility programs for certain purposes; requiring the~~  
24 ~~Department, in consultation with the assisted living industry to ~~develop a~~~~  
25 ~~certain methodology based on the actual cost of certain services conduct a~~  
26 ~~certain review, study certain costs, and consider certain reimbursement options;~~  
27 ~~requiring the Department to submit a certain report on or before a certain date;~~  
28 ~~requiring the Department to conduct a certain evaluation and submit a certain~~

1 report to certain committees of the General Assembly on or before a certain date;  
 2 providing for the effective date of certain provisions of this Act; providing for the  
 3 termination of certain provisions of this Act; and generally relating to the  
 4 certification of third party accreditation programs ~~and managers~~ of assisted  
 5 living facilities.

6 BY repealing and reenacting, with amendments,  
 7 Article - Health - General  
 8 Section ~~19-1805(a)~~ 19-1805  
 9 Annotated Code of Maryland  
 10 (2000 Replacement Volume and 2002 Supplement)

11 BY repealing and reenacting, with amendments,  
 12 Article - Health - General  
 13 Section 19-1805  
 14 Annotated Code of Maryland  
 15 (2000 Replacement Volume and 2002 Supplement)  
 16 (As enacted by Chapter 195 of the Acts of the General Assembly of 1999)

17 ~~BY adding to~~  
 18 ~~Article - Health - General~~  
 19 ~~Section 19-1807~~  
 20 ~~Annotated Code of Maryland~~  
 21 ~~(2000 Replacement Volume and 2002 Supplement)~~

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

24 **Article - Health - General**

25 19-1805.

26 (a) The Department shall:

27 (1) Define different levels of assisted living according to the level of care  
 28 provided;

29 (2) Require all assisted living programs to be licensed to operate  
 30 according to the level of the program;

31 (3) Develop a waiver process for authorizing an assisted living program  
 32 to continue to care for an individual whose medical or functional condition has  
 33 changed since admission to the program to an extent that the level of care required by  
 34 the individual exceeds the level of care for which the program is licensed;

35 (4) Promote affordable and accessible assisted living programs  
 36 throughout the State;

1 (5) Establish and enforce quality standards for assisted living programs;

2 (6) Require periodic inspections of assisted living program facilities,  
3 including at least an annual unannounced on-site inspection;

4 (7) Establish requirements for the qualifications or training or both of  
5 assisted living program employees;

6 (8) Establish a "resident bill of rights" for residents of assisted living  
7 program facilities; ~~and~~

8 (9) Define which, if any, assisted living programs may be exempt from  
9 the requirements of § 19-311 of this title; ~~AND~~.

10 ~~(10) ESTABLISH AND ENFORCE STANDARDS TO CERTIFY THIRD PARTY~~  
11 ~~ASSISTED LIVING ACCREDITATION PROGRAMS THAT:~~

12 ~~(I) AUTHORIZE THE ACCEPTANCE OF THE RESULTS OF A~~  
13 ~~CERTIFIED THIRD PARTY ACCREDITATION SURVEY AS SUFFICIENT FOR~~  
14 ~~COMPLIANCE WITH ASSISTED LIVING PROGRAM LICENSURE REQUIREMENTS; AND~~

15 ~~(II) REQUIRE THE CERTIFIED THIRD PARTY ACCREDITATION~~  
16 ~~SURVEY ACCEPTED BY THE DEPARTMENT TO BE AVAILABLE FOR PUBLIC REVIEW.~~

17 ~~19-1807.~~

18 ~~(A) THE ASSISTED LIVING PROGRAM MANAGER FOR A LICENSED FACILITY~~  
19 ~~THAT IS LICENSED FOR GREATER THAN SEVEN BEDS SHALL BE CERTIFIED BY THE~~  
20 ~~DEPARTMENT.~~

21 ~~(B) (1) THE DEPARTMENT SHALL APPROVE THE ASSISTED LIVING PROGRAM~~  
22 ~~MANAGER CERTIFICATION CURRICULUM THAT INCLUDES THE FOLLOWING~~  
23 ~~TRAINING AREAS:~~

24 ~~(I) FACILITY MANAGEMENT;~~

25 ~~(II) CLINICAL AND SOCIAL ASPECTS OF ASSISTED LIVING; AND~~

26 ~~(III) REGULATORY COMPLIANCE.~~

27 ~~(2) WHEN REVIEWING CERTIFICATION PROGRAMS, THE DEPARTMENT~~  
28 ~~SHALL CONSIDER THE COSTS TO THE PROVIDER.~~

29 ~~(C) (1) UNCERTIFIED ASSISTED LIVING PROGRAM MANAGERS SHALL~~  
30 ~~OBTAIN CERTIFICATION BY OCTOBER 1, 2006.~~

31 ~~(2) THE ASSISTED LIVING PROGRAM MANAGER CERTIFICATION SHALL~~  
32 ~~BE RENEWED EVERY 2 YEARS.~~

33 ~~(D) THE DEPARTMENT SHALL ADOPT REGULATIONS TO IMPLEMENT THE~~  
34 ~~REQUIREMENTS OF THIS SECTION.~~

1       (B)    (1)    (I)    THE SECRETARY MAY ACCEPT ALL OR PART OF A REPORT OF AN  
2 APPROVED ACCREDITING ORGANIZATION AS MEETING THE STATE LICENSING  
3 REQUIREMENTS FOR THE RENEWAL OF A LICENSE TO OPERATE AN ASSISTED LIVING  
4 FACILITY PROGRAM.

5                   (II)   THE SECRETARY MAY NOT ACCEPT ALL OR PART OF A REPORT  
6 OF AN APPROVED ACCREDITING ORGANIZATION AS MEETING THE STATE LICENSING  
7 REQUIREMENTS FOR AN INITIAL LICENSE TO OPERATE AN ASSISTED LIVING  
8 FACILITY PROGRAM.

9           (2)    (1)    THE ASSISTED LIVING FACILITY PROGRAM SHALL SUBMIT THE  
10 REPORT OF AN ACCREDITING ORGANIZATION TO THE SECRETARY WITHIN 30 DAYS  
11 OF THE RECEIPT OF THE REPORT BY THE ASSISTED LIVING FACILITY PROGRAM.

12                   (II)   THE REPORT OF AN ACCREDITING ORGANIZATION USED BY  
13 THE DEPARTMENT AS MEETING THE STATE LICENSING REQUIREMENTS FOR  
14 RENEWAL OF A LICENSE TO OPERATE AN ASSISTED LIVING FACILITY PROGRAM  
15 SHALL BE MADE AVAILABLE TO THE PUBLIC ON REQUEST.

16           (3)    THE SECRETARY MAY INSPECT AN ASSISTED LIVING FACILITY  
17 PROGRAM TO:

18                   (I)    INVESTIGATE A COMPLAINT;

19                   (II)   FOLLOW UP ON A SERIOUS PROBLEM IDENTIFIED BY AN  
20 APPROVED ACCREDITING ORGANIZATION; OR

21                   (III)   VALIDATE FINDINGS OF AN APPROVED ACCREDITING  
22 ORGANIZATION.

23    [(b)]   (C)    (1)    In this subsection, "level of care 3 plus waiver" means a  
24 resident-specific waiver granted by the Department under COMAR 10.07.14.10 for  
25 an individual who resides in an assisted living facility licensed by the Department  
26 and who is within one or more of the categories specified in COMAR 10.07.14.10(j).

27           (2)    On or before December 15 of each year, the Department shall submit  
28 to the Governor and, subject to § 2-1246 of the State Government Article, to the  
29 General Assembly, a report concerning its experience with level of care 3 plus waivers  
30 for the preceding 12-month period that ends on November 30.

31           (3)    For each and all assisted living facilities, the report shall include:

32                   (i)    The total number of level of care 3 plus waivers requested from  
33 and total granted by the Department;

34                   (ii)   The duration of each level of care 3 plus waiver and the average  
35 duration of all level of care 3 plus waivers granted by the Department;

1                   (iii)     The total number of residents who were granted a level of care  
2 3 plus waiver by the Department and remained at their assisted living facility under  
3 that waiver; and

4                   (iv)     The total number of residents who were granted a level of care  
5 3 plus waiver and were subsequently transferred.

6     [(c)]     (D)     (1)     The Department, in consultation with representatives of the  
7 affected industry and advocates for residents of the facilities and with the approval of  
8 the Department of Aging and the Department of Human Resources, shall adopt  
9 regulations to implement this subtitle.

10               (2)     The regulations adopted under paragraph (1) of this subsection shall:

11                   (i)     Provide for the licensing of assisted living programs and the  
12 renewal of licenses;

13                   (ii)     Require the Secretary to charge fees in a manner that will  
14 produce funds not to exceed the actual direct and indirect costs to the Department for  
15 inspecting assisted living program facilities and maintaining the licensure program  
16 for assisted living programs under this subtitle;

17                   (iii)     Require the Department, during a survey or other inspection of  
18 an assisted living program, to review the number of waivers granted to the program  
19 under subsection (a)(3) of this section and determine whether a change in the  
20 program's licensure status is warranted; and

21                   (iv)     Require an assisted living program facility to post in a  
22 conspicuous place visible to actual and potential residents of the facility and other  
23 interested parties:

24                               1.     A.     Its statement of deficiencies for the most recent  
25 survey;

26                               B.     Any subsequent complaint investigations conducted by  
27 federal, State, or local surveyors; and

28                               C.     Any plans of correction in effect with respect to the survey  
29 or complaint investigation; or

30                               2.     A notice of the location, within the facility, of the items  
31 listed in item 1 of this item.

32     SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
33 read as follows:

**Article - Health - General**

19-1805.

(a) The Department shall:

(1) Define different levels of assisted living according to the level of care provided;

(2) Require all assisted living programs to be licensed to operate according to the level of the program;

(3) Develop a waiver process for authorizing an assisted living program to continue to care for an individual whose medical or functional condition has changed since admission to the program to an extent that the level of care required by the individual exceeds the level of care for which the program is licensed;

(4) Promote affordable and accessible assisted living programs throughout the State;

(5) Establish and enforce quality standards for assisted living programs;

(6) Require periodic inspections of assisted living program facilities, including at least an annual unannounced on-site inspection;

(7) Establish requirements for the qualifications or training or both of assisted living program employees;

(8) Establish a "resident bill of rights" for residents of assisted living program facilities; and

(9) Define which, if any, assisted living programs may be exempt from the requirements of § 19-311 of this title.

(B) (1) (I) THE SECRETARY MAY ACCEPT ALL OR PART OF A REPORT OF AN APPROVED ACCREDITING ORGANIZATION AS MEETING THE STATE LICENSING REQUIREMENTS FOR RENEWAL OF A LICENSE TO OPERATE AN ASSISTED LIVING FACILITY PROGRAM.

(II) THE SECRETARY MAY NOT ACCEPT ALL OR PART OF A REPORT OF AN APPROVED ACCREDITING ORGANIZATION AS MEETING THE STATE LICENSING REQUIREMENTS FOR AN INITIAL LICENSE TO OPERATE AN ASSISTED LIVING FACILITY PROGRAM.

(2) (I) THE ASSISTED LIVING FACILITY PROGRAM SHALL SUBMIT THE REPORT OF AN ACCREDITING ORGANIZATION TO THE SECRETARY WITHIN 30 DAYS OF THE RECEIPT OF THE REPORT BY THE ASSISTED LIVING FACILITY PROGRAM.

(II) THE REPORT OF AN ACCREDITING ORGANIZATION USED BY THE DEPARTMENT AS MEETING THE STATE LICENSING REQUIREMENTS FOR

1 RENEWAL OF A LICENSE TO OPERATE AN ASSISTED LIVING FACILITY PROGRAM  
2 SHALL BE MADE AVAILABLE TO THE PUBLIC ON REQUEST.

3 (3) THE SECRETARY MAY INSPECT AN ASSISTED LIVING FACILITY  
4 PROGRAM TO:

5 (I) INVESTIGATE A COMPLAINT;

6 (II) FOLLOW UP ON A SERIOUS PROBLEM IDENTIFIED BY AN  
7 APPROVED ACCREDITING ORGANIZATION; OR

8 (III) VALIDATE FINDINGS OF AN APPROVED ACCREDITING  
9 ORGANIZATION.

10 [(b)] (C) (1) The Department, in consultation with representatives of the  
11 affected industry and advocates for residents of the facilities and with the approval of  
12 the Department of Aging and the Department of Human Resources, shall adopt  
13 regulations to implement this subtitle.

14 (2) The regulations adopted under paragraph (1) of this subsection shall:

15 (i) Provide for the licensing of assisted living programs and the  
16 renewal of licenses;

17 (ii) Require the Secretary to charge fees in a manner that will  
18 produce funds not to exceed the actual direct and indirect costs to the Department for  
19 inspecting assisted living program facilities and maintaining the licensure program  
20 for assisted living programs under this subtitle;

21 (iii) Require the Department, during a survey or other inspection of  
22 an assisted living program, to review the number of waivers granted to the program  
23 under subsection (a)(3) of this section and determine whether a change in the  
24 program's licensure status is warranted; and

25 (iv) Require an assisted living program facility to post in a  
26 conspicuous place visible to actual and potential residents of the facility and other  
27 interested parties:

28 1. A. Its statement of deficiencies for the most recent  
29 survey;

30 B. Any subsequent complaint investigations conducted by  
31 federal, State, or local surveyors; and

32 C. Any plans of correction in effect with respect to the survey  
33 or complaint investigation; or

34 2. A notice of the location, within the facility, of the items  
35 listed in item 1 of this item.

1     SECTION ~~2-3~~ 3. AND BE IT FURTHER ENACTED, That the Department of  
2 Health and Mental Hygiene, in consultation with the assisted living industry, shall  
3 ~~develop a methodology to establish~~ review its current payment rates, study the costs  
4 ~~of providing services, and consider reimbursement options including~~ an annual  
5 rate-setting formula based on the actual cost for assisted living services under  
6 COMAR 10.09.54.00. The Department shall submit a report regarding ~~this~~  
7 ~~methodology~~ its findings to the General Assembly, in accordance with § 2-1246 of the  
8 State Government Article, on or before January 1, 2004.

9     SECTION 4. AND BE IT FURTHER ENACTED, That the Department of  
10 Health and Mental Hygiene shall conduct an evaluation of assisted living services in  
11 Maryland, in consultation with assisted living consumers and providers, and submit a  
12 report, in accordance with § 2-1246 of the State Government Article, to the Senate  
13 Finance Committee and the House Health and Government Operations Committee on  
14 or before January 1, 2004. The report shall include recommendations relating to:

15     (a)     small and large providers of assisted living facilities;

16     (b)     the certification of assisted living facility managers; and

17     (c)     quality standards for specialized assisted living facilities, including  
18 facilities with Alzheimer's units.

19     SECTION ~~3-5~~ 5. AND BE IT FURTHER ENACTED, That Section 1 of this Act  
20 shall take effect October 1, 2003. It shall remain effective until the taking effect of  
21 Section 2 of this Act. If Section 2 of this Act takes effect, Section 1 of this Act shall be  
22 abrogated and of no further force and effect.

23     SECTION 6. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall  
24 take effect October 1, 2004, the effective date of Chapter 195 of the Acts of the General  
25 Assembly of 1999. If the effective date of Chapter 195 is amended, Section 2 of this Act  
26 shall take effect on the taking effect of Chapter 195.

27     SECTION 7. AND BE IT FURTHER ENACTED, That, subject to the provisions  
28 of Sections 5 and 6 of this Act, this Act shall take effect October 1, 2003.