

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 325
Finance

(Senator Serafini)

Nursing Homes - Provision of Beds With Bed Rails

This bill requires a nursing home to notify a resident (or the resident's representative) on admission of the availability of beds with bed rails. A nursing home must provide a resident with a bed with bed rails on the request of the resident (or the resident's representative), as allowed by federal law. **The bill takes effect July 1, 2018.**

Fiscal Summary

State Effect: The bill is not anticipated to materially impact State finances or operations.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law/Background: Neither statute nor State regulations require nursing homes to offer beds with bed rails or to notify residents or their representatives about the availability of bed rails on admission.

Guidance provided by the [Centers for Medicare and Medicaid Services](#) (CMS) to State nursing home facility surveyors emphasizes that the legal surrogate or representative *cannot give permission* to use restraints, including bed rails, for the sake of discipline or staff convenience when the restraint is not necessary to treat the resident's medical condition. CMS guidance notes that the use of partial bed rails may assist an independent resident to enter and exit the bed independently and would not be considered a physical restraint. To determine if a bed rail is being used as a restraint, the resident must be able

to easily and voluntarily get in and out of bed when the equipment is in use. If the resident cannot easily and voluntarily release the bed rails, the use of the bed rails may be considered a restraint. Other federal regulations specify that a resident has the right to be free from any physical restraint imposed for the purpose of discipline or convenience and not required to treat the resident's medical symptoms.

Additionally, the U.S. Food and Drug Administration (FDA) cautions that health care providers should generally avoid the routine use of bed rails and that bed rails should not be used as a substitute for proper monitoring, especially for people at high risk of entrapment. FDA guidance states that if patients or family ask about using bed rails, health care providers should:

- encourage patients or family to talk to their health care planning team to determine whether or not bed rails are indicated;
- reassure patients and their families that in many cases the patient can sleep safely without bed rails; and
- reassess the need for using bed rails on a frequent, regular basis.

The Office of Health Care Quality advises that, as of January 2018, 227 nursing homes are licensed to operate in Maryland. Of these, 25 facilities have 50 or fewer total beds, 54 facilities have between 51 and 100 beds, 132 facilities have between 101 and 200 beds, and 16 facilities have 201 beds or more.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Health; U.S. Food and Drug Administration; Centers for Medicare and Medicaid Services; Department of Legislative Services

Fiscal Note History: First Reader - February 5, 2018
mm/jc

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