

## Chapter 454

**(Senate Bill 386)**

AN ACT concerning

**Maryland Nursing Home Resident Protection Act of 2018**

FOR the purpose of requiring the Maryland Department of Health to ~~investigate~~ initiate an investigation of certain nursing home complaints against certain nursing homes within a certain number of days of receiving the complaints; requiring the Maryland Department of Health to make every effort to investigate within a certain number of hours complaints alleging immediate jeopardy to residents of certain nursing homes; requiring the Maryland Department of Health to investigate a certain complaint within a certain period of time after receiving the complaint; providing that certain surveys may be unannounced under certain circumstances; requiring the Maryland Department of Health to develop a certain data dashboard that includes certain information; requiring that the data dashboard be updated at certain intervals; requiring the Maryland Department of Health to post a certain data dashboard on its website in a certain manner; ~~requiring the Maryland Department of Health to provide a certain data dashboard to the Department of Legislative Services; requiring the Department of Legislative Services to post the data dashboard on the Maryland General Assembly website;~~ requiring that the Maryland Department of Health to hire receive a certain number of ~~long-term care surveyors or to fill certain vacancies for a certain purpose on or before a certain date~~ full-time merit positions for certain purposes in the Office of Health Care Quality in certain fiscal years; and generally relating to the regulation of nursing homes.

BY repealing and reenacting, with amendments,  
 Article – Health – General  
 Section 19–1408  
 Annotated Code of Maryland  
 (2015 Replacement Volume and 2017 Supplement)

BY adding to  
 Article – Health – General  
 Section 19–1408.1  
 Annotated Code of Maryland  
 (2015 Replacement Volume and 2017 Supplement)

## Preamble

WHEREAS, A 2017 report of the U.S. Department of Health and Human Services Inspector General shows that the State is 7th worst in the nation for on-time investigations of nursing home complaints; and

WHEREAS, The U.S. Department of Health and Human Services Inspector General report shows that the State did not investigate 74% of high–level nursing home complaints within the federal deadline of 10 days; and

WHEREAS, Almost 19 years ago, the U.S. General Accounting Office found that the State did not investigate 79% of high priority nursing home complaints within the federal deadline of 10 days, including investigations not occurring for months despite an urgency in the nature of the complaints; and

WHEREAS, The Maryland Department of Health reported in 2016 that it takes 47 days to initiate an on–site investigation, which demonstrates a lack of commitment to investigating complaints about nursing homes and other facilities; and

WHEREAS, The lack of commitment to investigating complaints regarding nursing homes and other facilities by the State is evident in the longstanding understaffing of nurse surveyors in the Maryland Office of Health Care Quality; and

WHEREAS, There appears to be no commitment to change the deficient and dangerous conditions in terms of the timeliness of investigating nursing home complaints, which affects the health and well–being of vulnerable Marylanders who reside in nursing homes; and

WHEREAS, These conditions cannot be permitted to continue; now, therefore,

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

### **Article – Health – General**

19–1408.

(a) (1) The Department shall make a site visit and conduct a full survey of each licensed nursing home at least once per calendar year.

[(b)] (2) ~~ALL~~ UNLESS OTHERWISE REQUIRED BY FEDERAL LAW, ALL surveys shall be unannounced.

**(B) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE DEPARTMENT SHALL ~~INVESTIGATE A COMPLAINT AGAINST A NURSING HOME~~ INITIATE AN INVESTIGATION OF A NURSING HOME COMPLAINT ALLEGING ACTUAL HARM WITHIN 10 BUSINESS DAYS AFTER RECEIVING THE COMPLAINT.**

**(2) IF THE DEPARTMENT RECEIVES A COMPLAINT AGAINST A NURSING HOME ALLEGING IMMEDIATE JEOPARDY TO A RESIDENT, THE DEPARTMENT:**

(I) SHALL MAKE EVERY EFFORT TO INVESTIGATE THE COMPLAINT WITHIN 24 HOURS AFTER RECEIVING THE COMPLAINT; AND

(II) SHALL INVESTIGATE THE COMPLAINT NOT LATER THAN 48 HOURS AFTER RECEIVING THE COMPLAINT.

19-1408.1.

(A) THE DEPARTMENT SHALL DEVELOP A CLEAR AND EASY-TO-UNDERSTAND GRAPHIC DATA DASHBOARD THAT INCLUDES:

(1) THE NUMBER OF ~~LONG TERM CARE SURVEYORS~~ STAFF HIRED BY THE ~~DEPARTMENT~~ AGENCY IN EACH UNIT IN THE FISCAL YEAR TO DATE;

(2) THE NUMBER OF ~~LONG TERM CARE~~ SURVEYORS EMPLOYED BY THE ~~DEPARTMENT~~ AGENCY IN EACH UNIT IN THE FISCAL YEAR TO DATE; AND

(3) THE NUMBER OF VACANCIES WITHIN THE AGENCY IN EACH UNIT IN THE FISCAL YEAR TO DATE.

~~(3) THE NUMBER OF COMPLAINTS AGAINST NURSING HOMES FILED WITH THE DEPARTMENT DURING THE FISCAL YEAR TO DATE;~~

~~(4) THE NUMBER OF IMMEDIATE JEOPARDY COMPLAINTS AGAINST NURSING HOMES FILED WITH THE DEPARTMENT DURING THE FISCAL YEAR TO DATE;~~

~~(5) THE NUMBER OF NEW COMPLAINTS AGAINST NURSING HOMES FILED WITH THE DEPARTMENT IN THE IMMEDIATELY PRECEDING 2 WEEKS;~~

~~(6) THE NUMBER OF NEW IMMEDIATE JEOPARDY COMPLAINTS AGAINST NURSING HOMES FILED WITH THE DEPARTMENT IN THE IMMEDIATELY PRECEDING 2 WEEKS;~~

~~(7) THE AVERAGE LENGTH OF TIME FOR THE DEPARTMENT TO CONDUCT AN ON-SITE INVESTIGATION OF ALL COMPLAINTS, EXCEPT FOR IMMEDIATE JEOPARDY COMPLAINTS, AGAINST NURSING HOMES DURING THE FISCAL YEAR TO DATE;~~

~~(8) THE AVERAGE LENGTH OF TIME FOR THE DEPARTMENT TO CONDUCT AN ON-SITE INVESTIGATION OF IMMEDIATE JEOPARDY COMPLAINTS AGAINST NURSING HOMES DURING THE FISCAL YEAR TO DATE;~~

~~(9) THE PERCENTAGE OF COMPLAINTS AGAINST NURSING HOMES IN WHICH AN ON-SITE INVESTIGATION WAS CONDUCTED BY THE DEPARTMENT WITHIN 10 DAYS AFTER THE RECEIPT OF THE COMPLAINT; AND~~

~~(10) THE PERCENTAGE OF IMMEDIATE JEOPARDY COMPLAINTS AGAINST NURSING HOMES IN WHICH AN ON-SITE INVESTIGATION WAS CONDUCTED BY THE DEPARTMENT WITHIN 24 HOURS AFTER THE RECEIPT OF THE COMPLAINT AND WITHIN 48 HOURS AFTER THE RECEIPT OF THE COMPLAINT.~~

(B) THE DEPARTMENT SHALL:

(1) UPDATE THE DATA DASHBOARD DEVELOPED UNDER SUBSECTION (A) OF THIS SECTION AT LEAST EVERY 2 WEEKS; AND

(2) POST THE MOST RECENT UPDATED DATA DASHBOARD PROMINENTLY ON ITS WEBSITE; AND

~~(3) PROVIDE THE UPDATED DATA DASHBOARD TO THE DEPARTMENT OF LEGISLATIVE SERVICES.~~

~~(C) THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL POST THE MOST RECENT DATA DASHBOARD PROVIDED UNDER SUBSECTION (B)(3) OF THIS SECTION ON THE MARYLAND GENERAL ASSEMBLY WEBSITE.~~

SECTION 2. AND BE IT FURTHER ENACTED, That, ~~on or before September 1, 2018,~~ the Maryland Department of Health shall:

~~(1) hire 20~~ annually receive 10 ~~new full-time, long-term care surveyors in merit positions related to the survey, licensure, discipline, or regulation of related institutions, including assisted living programs, to protect vulnerable residents served by the related institutions, which positions will be received by the Office of Health Care Quality for each fiscal year beginning in fiscal year 2020 and ending in fiscal year 2024 for a total of 50 new full-time merit positions; or~~

~~(2) fill existing vacancies in order to have a minimum of 50 full-time, long-term care surveyors in the Office of Health Care Quality.~~

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2018.

Approved by the Governor, May 8, 2018.