

# SENATE BILL 966

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By: **Senator Hettleman**

Introduced and read first time: February 3, 2020

Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **Health Facilities – Assisted Living Programs – Referrals and Licenses**

3 FOR the purpose of authorizing the Office of the Attorney General to seek certain injunctive  
4 or other relief for a certain purpose under certain circumstances; prohibiting a  
5 person from knowingly and willfully referring another person to a certain assisted  
6 living program; establishing certain penalties for certain violations of this Act;  
7 requiring the Secretary of Health to remit certain penalties to the Office of Health  
8 Care Quality for a certain purpose; requiring each assisted living referrer to register  
9 with the Office of Health Care Quality, make a certain disclosure to a certain client,  
10 affirm certain information under certain circumstances, and notify the Office of  
11 Health Care Quality of certain information; authorizing each assisted living referrer  
12 to refer a certain client only to a certain assisted living program under certain  
13 circumstances; prohibiting an assisted living referrer from receiving certain funding  
14 under certain circumstances; authorizing the Office of the Attorney General to  
15 investigate a certain matter and seek appropriate relief under certain circumstances;  
16 defining a certain term; and generally relating to referrals to, and licenses for,  
17 assisted living programs.

18 BY repealing and reenacting, without amendments,

19 Article – Health – General  
20 Section 19–1804.1  
21 Annotated Code of Maryland  
22 (2019 Replacement Volume)

23 BY repealing and reenacting, with amendments,

24 Article – Health – General  
25 Section 19–1809  
26 Annotated Code of Maryland  
27 (2019 Replacement Volume)

28 BY adding to

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Health – General  
2 Section 19–1813  
3 Annotated Code of Maryland  
4 (2019 Replacement Volume)

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

7 **Article – Health – General**

8 19–1804.1.

9 (a) A person shall be licensed by the Department to conduct, operate, or maintain  
10 an assisted living program in the State.

11 (b) (1) A person shall submit an application for licensure to conduct, operate,  
12 or maintain an assisted living program to the Secretary on a form developed by the  
13 Secretary.

14 (2) (i) The Secretary shall develop the application for licensure  
15 required under paragraph (1) of this subsection.

16 (ii) The application shall include the name and address of each  
17 officer, manager, alternate manager, and delegating nurse or case manager of the assisted  
18 living program.

19 (3) In addition to the application, an applicant for initial licensure shall  
20 submit to the Secretary:

21 (i) Information concerning any license or certification held by the  
22 applicant under the Health Occupations Article or under this article, including the prior or  
23 current operation by the applicant of a health care facility, residential facility, or similar  
24 health care program;

25 (ii) Information demonstrating the financial and administrative  
26 ability of the applicant to operate an assisted living program in compliance with this  
27 subtitle;

28 (iii) The policies and procedures to be implemented by the assisted  
29 living program;

30 (iv) Identification of the personnel and relief personnel to be  
31 employed by the assisted living program; and

32 (v) Any other information that is relevant to the ability of the  
33 applicant to care for the residents of the assisted living program.

1 (c) (1) The Secretary shall:

2 (i) Review the application and information received under  
3 subsection (b) of this section; and

4 (ii) Conduct an independent investigation of the assisted living  
5 program applying for initial licensure.

6 (2) Based on the review and investigation conducted under paragraph (1)  
7 of this subsection, the Secretary shall:

8 (i) Authorize the unconditional approval of the application;

9 (ii) Authorize the conditional approval of the application; or

10 (iii) Deny the application.

11 (d) The Secretary may issue a probationary license that is valid for a period of  
12 time determined by the Secretary in accordance with regulations adopted by the Secretary.

13 19–1809.

14 (a) (1) A person may not knowingly and willfully operate, maintain, or own an  
15 assisted living program without a license.

16 (2) A person who violates paragraph (1) of this subsection is guilty of a  
17 felony and on conviction is subject to:

18 (i) For a first offense, a fine not exceeding \$10,000 or imprisonment  
19 not exceeding 5 years or both; or

20 (ii) For a subsequent offense, a fine not exceeding \$20,000 or  
21 imprisonment not exceeding 5 years or both.

22 (3) If the Department finds an assisted living program to be in violation of  
23 paragraph (1) of this subsection, the Department shall send written notice to the program  
24 30 days before the State files charges under this section in order to give the program an  
25 opportunity to come into compliance with licensure requirements.

26 (4) A person may not be subject to paragraph (2) of this subsection if the  
27 person has:

28 (i) Applied in good faith to the Department for an assisted living  
29 program license;

30 (ii) Is awaiting a decision from the Department regarding the  
31 application; and

1 (iii) Has not been denied an assisted living program license on a prior  
2 occasion.

3 (5) In recommending the amount of the criminal penalty under paragraph  
4 (2) of this subsection, the State shall consider factors including the nature, number, and  
5 seriousness of the violations and the ability of the assisted living program to pay the  
6 penalty.

7 **(6) IF A PERSON VIOLATES PARAGRAPH (1) OF THIS SUBSECTION FOR**  
8 **THE THIRD TIME, THE OFFICE OF THE ATTORNEY GENERAL MAY SEEK**  
9 **APPROPRIATE INJUNCTIVE OR OTHER RELIEF TO PREVENT THE PERSON FROM**  
10 **CONTINUING TO OPERATE, MAINTAIN, OR OWN AN ASSISTED LIVING PROGRAM**  
11 **WITHOUT A LICENSE, INCLUDING INJUNCTIVE RELIEF THAT:**

12 **(I) REQUIRES THE PERSON TO IMMEDIATELY CEASE**  
13 **OPERATING THE ASSISTED LIVING PROGRAM; AND**

14 **(II) PROHIBITS THE PERSON FROM OPERATING, MAINTAINING,**  
15 **OR OWNING AN ASSISTED LIVING PROGRAM IN THE FUTURE.**

16 (b) (1) (i) A person may not advertise, represent, or imply to the public that  
17 an assisted living program is authorized to provide a service that the program is not  
18 licensed, certified, or otherwise authorized by the Department to provide when the license,  
19 certificate, or authorization is required under this subtitle.

20 (ii) A person may not advertise an assisted living program in a  
21 misleading or fraudulent manner.

22 (2) (i) A person who violates paragraph (1) of this subsection is subject  
23 to a civil money penalty imposed by the Secretary not exceeding \$10,000 for each offense.

24 (ii) In setting the amount of a civil money penalty on the program  
25 under subparagraph (i) of this paragraph, the Secretary shall consider factors including the  
26 nature, number, and seriousness of the violations and the ability of the assisted living  
27 program to pay the penalty.

28 **(C) (1) A PERSON MAY NOT WILLFULLY AND KNOWINGLY REFER**  
29 **ANOTHER PERSON TO AN ASSISTED LIVING PROGRAM THAT IS OPERATING WITHOUT**  
30 **A LICENSE.**

31 **(2) A PERSON WHO VIOLATES PARAGRAPH (1) OF THIS SUBSECTION**  
32 **IS SUBJECT TO THE FOLLOWING CIVIL PENALTIES:**

33 **(I) FOR A FIRST OFFENSE, A CIVIL PENALTY NOT EXCEEDING**

1 **\$1,000;**

2 (II) FOR A SECOND OFFENSE, A CIVIL PENALTY NOT EXCEEDING  
3 **\$2,000; OR**

4 (III) FOR A THIRD OR SUBSEQUENT OFFENSE, A CIVIL PENALTY  
5 **NOT EXCEEDING \$3,000.**

6 (3) THE SECRETARY SHALL REMIT ALL CIVIL PENALTIES COLLECTED  
7 UNDER THIS SUBSECTION TO THE OFFICE OF HEALTH CARE QUALITY FOR THE  
8 PURPOSES OF CARRYING OUT THE PROVISIONS OF § 19-1813 OF THIS SUBSECTION.

9 **19-1813.**

10 (A) IN THIS SECTION, "ASSISTED LIVING REFERRER" MEANS AN INDIVIDUAL  
11 OR AGENCY THAT:

12 (1) MAKES REFERRALS TO ASSISTED LIVING PROGRAMS WITHOUT  
13 COST TO THE PERSON RECEIVING THE REFERRAL;

14 (2) IS COMPENSATED BY AN ASSISTED LIVING PROGRAM OR OTHER  
15 THIRD PARTY FOR REFERRING INDIVIDUALS TO A LICENSED ASSISTED LIVING  
16 PROGRAM; AND

17 (3) MAKES REFERRALS ONLY TO LICENSED ASSISTED LIVING  
18 PROGRAMS FOR WHICH THE REFERRER RECEIVES COMPENSATION UNDER ITEM (2)  
19 OF THIS SUBSECTION.

20 (B) EACH ASSISTED LIVING REFERRER:

21 (1) SHALL REGISTER WITH THE OFFICE OF HEALTH CARE QUALITY;

22 (2) SHALL DISCLOSE TO A CLIENT OR POTENTIAL CLIENT OF THE  
23 ASSISTED LIVING REFERRER ALL FINANCIAL RELATIONSHIPS THE ASSISTED LIVING  
24 REFERRER HAS WITH ASSISTED LIVING PROGRAMS;

25 (3) IF REFERRING A CLIENT OR POTENTIAL CLIENT TO AN ASSISTED  
26 LIVING PROGRAM, SHALL AFFIRM THAT THE ASSISTED LIVING PROGRAM IS  
27 LICENSED;

28 (4) IF REFERRING A CLIENT OR POTENTIAL CLIENT TO AN ASSISTED  
29 LIVING PROGRAM, MAY REFER THE CLIENT OR POTENTIAL CLIENT ONLY TO A  
30 LICENSED ASSISTED LIVING PROGRAM; AND

1           **(5) SHALL NOTIFY THE OFFICE OF HEALTH CARE QUALITY**  
2 **IMMEDIATELY ON LEARNING THAT THE ASSISTED LIVING PROGRAM IS OPERATING**  
3 **WITHOUT A LICENSE.**

4           **(C) AN ASSISTED LIVING REFERRER MAY NOT RECEIVE FUNDING FROM THE**  
5 **DEPARTMENT IF THE ASSISTED LIVING REFERRER IS IN VIOLATION OF THIS**  
6 **SUBTITLE.**

7           **(D) IF REQUESTED BY ANY PERSON OR ON ITS OWN INITIATIVE, THE OFFICE**  
8 **OF THE ATTORNEY GENERAL MAY INVESTIGATE WHETHER AN ASSISTED LIVING**  
9 **REFERRER VIOLATED THIS SUBTITLE AND MAY SEEK APPROPRIATE RELIEF.**

10           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
11 October 1, 2020.