

PJC testimony - SB 507.pdf

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Position: FAV



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SB 507 – Division of Consumer Protection – Assisted Living Programs

Hearing before the Senate Finance Committee, February 18, 2021

Position: SUPPORT

The Public Justice Center (PJC) is a not-for-profit civil rights and anti-poverty legal services organization that seeks to advance social justice, economic and racial equity, and fundamental human rights in Maryland. Our Health Rights Project supports policies and practices that promote the overall health of Marylanders struggling to make ends meet, with the explicit goal of promoting strategies that work to eliminate racial and ethnic disparities in health outcomes. The PJC **supports SB 507**, which would protect vulnerable Marylanders by requiring that (1) assisted living programs that are representative payees for their residents report to OAG’s Division of Consumer Protection basic information on how the money was spent, and (2) complaints to MDH’s Office of Health Care Quality be concurrently referred to OAG’s Division of Consumer Protection.

Increased oversight is required when assisted living programs are representative payees for their residents.

- Most representative payees are family members of the benefit recipient. However, in some circumstances, the representative payee may be the assisted living program where a benefit recipient lives.
- When creditors—including assisted living programs—act as representative payees, there is an inherent conflict between the program’s business interest (maximizing the amount of money that goes to the program) and the individual’s interest (spending benefit income wisely and efficiently).
- Assisted living programs benefit when they are a resident’s representative payee, because that program gets a guarantee income stream with much less administrative work.
- In exchange for this benefit, best practices¹ call for increased oversight, better reporting, and close attention to potential wrongdoing. SB507 would further this goal and help protect vulnerable Marylanders.

For the reasons indicated above, the Public Justice Center **SUPPORTS SB 507** and requests a **FAVORABLE** report.

¹ Justice in Aging, a national advocacy organization, provides a full analysis of these best practices at <http://justiceinaging.org/wp-content/uploads/2018/01/Skilled-Nursing-Facilities-and-Other-Creditors-Acting-As-Representative-Payees.pdf>.

The Public Justice Center is a 501(c)(3) charitable organization and as such does not endorse or oppose any political party or candidate for elected office.

SB 507 Assisted Living Program Reporting.pdf

Uploaded by: Bresnahan, Tammy

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**SB 507 Assisted Living Program Reporting
Favorable
Senate Finance Committee
February 18, 2021**

Good afternoon Chairwoman Kelley and members of the Senate Finance Committee. My name is Tammy Bresnahan. I am the Director of AARP MD. AARP Maryland is one of the largest membership-based organizations in the state, encompassing over 850,000 members. **AARP MD overwhelmingly supports SB 507 Assisted Living Program Reporting.**

AARP is a nonpartisan, nonprofit, nationwide organization that helps people turn their goals and dreams into real possibilities, strengthens communities and fights for the issues that matter most to families such as healthcare, employment and income security, retirement planning, affordable utilities, and protection from financial abuse.

SB 507 requires that on or before June 1st of each year, each assisted living program that was appointed as a representative payee for residents of the assisted living facility report to the Division of Consumer Protection on the use of a residents:

- Social Security benefits of residents of the assisted living program facility during the immediately preceding year; and
- Other federal, state or local government funds for residents of the assisted living program facility during the immediately preceding year.

SB 507 also requires the Office of Health Care Quality within the Maryland Department of Health to refer an allegation of an unfair, abusive, or deceptive trade practice by an assisted living program to the Division of Consumer Protection under certain circumstances.

A representative payee is a person or entity appointed by Social Security to manage benefit payments for someone unable to do so on their own — for example, a minor child, or a retiree suffering from advanced dementia. More than 5.1 million Social Security beneficiaries had representative payees as of December 2019, including:

Real Possibilities

- 1.5 million Retired or disabled workers and their spouses, widows or widowers.
- 3.6 million Children, a figure that includes people over 18 who have been disabled since childhood.

Representative payees also handle benefits for nearly 3 million recipients of Supplemental Security Income (SSI), a Social Security–administered benefit program for low-income people who are over 65, blind or disabled. (Some beneficiaries collect both SSI and Social Security payments.)

The payee is typically a relative or close friend of the beneficiary needing assistance, but Social Security can also name an organization or institution for the role. (Examples include nursing homes, assisted livings facilities and social-service agencies.)

Among a range of duties, payees must:

- Use the beneficiary’s Social Security or SSI payments to meet his or her essential needs, such as food, shelter, household bills and medical care. The money can also be used for personal needs like clothing and recreation.
- Keep any remaining money from benefit payments in an interest-bearing bank account or savings bonds for the beneficiary’s future needs.
- Keep records of benefit payments received and how the money was spent or saved.
- Report to Social Security any changes or events that could affect the beneficiary’s payments (for example, a move, marriage, divorce or death).
- Report any circumstances that affect the payee’s ability to serve in the role.

A representative payee, cannot mingle the beneficiary’s Social Security payments with other money or use it for others. The bank account into which benefits are deposited should be fully owned by the beneficiary, with the payee listed as financial agent. Some payees, generally those who do not live with the beneficiary, are required to submit annual reports to Social Security accounting for how benefits are used.

AARP believes that government and long-term services and supports (LTSS) providers can implement various approaches to promoting service quality and protecting the rights of consumers. These include licensing and enforcement, strong ombudsman oversight, accreditation, and guaranteeing consumers’ right to bring legal action and legal oversight.

AARP also believes that states should establish licensing requirements that set various provider standards, monitor service quality, and protect residents’ rights. In response to noncompliance, regulators may apply a range of sanctions, from levying fines to revoking a facility’s license. Enforcement mechanisms vary by state and LTSS setting.

We applaud the efforts of Senator Kelley for bringing this bill forward to protect Maryland’s most vulnerable. We know she has had concerns about this for years. AARP

MD ask the Committee for a favorable report on SB 507. For questions, please contact Tammy Bresnahan tbresnahan@aarp.org or by calling 410-302-8451.

SB 507 Sponsor testimony

Uploaded by: Kelley, Delores

Position: FAV

SENATOR DELORES G. KELLEY
Legislative District 10
Baltimore County

—
Chair
Finance Committee

—
Executive Nominations Committee
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Legislative Policy Committee



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THE SENATE OF MARYLAND
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TESTIMONY OF SENATOR DELORES G. KELLEY
REGARDING SENATE BILL 507 DIVISION OF CONSUMER
PROTECTION-
ASSISTED LIVING PROGRAMS
BEFORE THE SENATE FINANCE COMMITTEE
February 18, 2021

Mr. Vice-Chair and Members:

Senate Bill 507 is here because of a plethora of concerns regarding significant, but unreported and undocumented cases of assisted living residents whose social security checks and/or other government pensions are under the control of the owners and/or

**administrators of assisted living programs that provide room,
board, and medication-management to the elderly and/or disabled**

Senate Bill 507

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**Marylanders who depend upon assisted living owners, managers
and/or staff for management and use of social security and/or other
pensions to which Maryland assisted living residents are
beneficiaries.**

**Senate Bill 507 requires that on or before June 1st of each year,
each assisted living program that was appointed as a representative
payee for residents of the assisted living facility at any point during
the reporting period shall report to the Division of Consumer**

Protection on the use of:

- 1. Social Security benefits of residents of the assisted living
program facility during the immediately preceding year;
and**
- 2. Other federal, state or local government funds for residents
of the assisted living program facility during the
immediately preceding year.**

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“Assisted living program” does not include:

- **A nursing home, per §19-1401 of Health General Article;**
- **A State facility as per §10-101 of Section 19-1801 of this article;**
- **A program licensed by the Department under Title 7 or Title 10 of this Article;**
- **A hospice care program regulated by the Department under Subtitle 9 of this title;**
- **services provided by family members;**
- **services provided in an individual’s own home; or**
- **A program certified by the Department of Human Services under Title 6, Subtitle 5, Part II of the Human Services Article as a certified Adult Residential Environment Program.**

**When the Office of Health Care Quality refers an allegation
of an unfair, abusive or deceptive trade practice by an**

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**assisted living program to the Office of the Inspector General, the
Office shall also concurrently refer the allegation to the Division of
Consumer Protection of the Office of the Attorney General.**

**The Act shall take effect on October 1, 2021, and I ask for your
support of SB 507.**

SB0507-FIN-FAV.pdf

Uploaded by: Mehu, Natasha

Position: FAV



BRANDON M. SCOTT
MAYOR

*Office of Government Relations
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Annapolis, Maryland 21401*

SB 507

February 18, 2021

TO: Members of the Finance Committee

FROM: Natasha Mehu, Director of Government Relations

RE: Senate Bill 507 – Division of Consumer Protection - Assisted Living Programs

POSITION: SUPPORT

Chair Kelley, Vice Chair Feldman, and Members of the Committee, please be advised that the Baltimore City Administration (BCA) **supports** Senate Bill (SB) 507.

This bill requires an assisted living program appointed as a representative payee for residents to report specified information to the Consumer Protection Division (CPD) of the Office of Attorney General (OAG) by June 1st each year. The report covers the use of residents' (1) Social Security benefits; and (2) other federal, State, or local government funds. When referring to an allegation of an unfair, abusive, or deceptive trade practice by an assisted living program to the Office of Inspector General within the Maryland Department of Health, the Office of Health Care Quality (OHCQ) must concurrently refer the allegation to CPD.

Senate Bill 507 provides protection for residents of assisted living facilities for whom the facility is the representative payee. Financial exploitation of vulnerable adults is increasing, including those who live in institutional settings such as assisted living. The report required by Senate Bill 507 may reduce or prevent victimization of assisted living residents.

We respectfully request a **favorable** report on Senate Bill 507.

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Position: FAV

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Baltimore Zionist District

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Beth El Congregation

Beth Israel Congregation

Beth Shalom Congregation of

Howard County

Beth Tfiloh Congregation

B'nai B'rith, Chesapeake Bay Region

B'nai Israel Congregation

B'nai Jacob Shaarei Zion Congregation

Bolton Street Synagogue

Chevra Ahavas Chesed, Inc.

Chevrei Tzedek Congregation

Chizuk Amuno Congregation

Congregation Beit Tikvah

Congregation Beth Shalom of

Carroll County

Congregation Tiferes Yisroel

Federation of Jewish Women's

Organizations of Maryland

Hadassah

Har Sinai - Oheb Shalom Congregation

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Jewish Federation of Howard County

Jewish Labor Committee

Jewish War Veterans

Jewish War Veterans, Ladies Auxiliary

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Moses Montefiore Anshe Emunah

Hebrew Congregation

National Council of Jewish Women

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Shomrei Emunah Congregation

Simon E. Sobeloff Jewish Law Society

Suburban Orthodox Congregation

Temple Beth Shalom

Temple Isaiah

Zionist Organization of America

Baltimore District

WRITTEN TESTIMONY

Senate Bill 507 – Division of Consumer Protection – Assisted Living Programs

Finance Committee
February 18, 2021

SUPPORT

Background: Senate Bill 507 (SB507) would require assisted living programs that are the authorized representative payee for residents to report the financial benefits of the residents including social security and other government funds for assisting older or disabled adults. It would also require the Office of Health Care Quality (OHCQ) when it receives allegations of unfair, abusive or deception trade practices by an assisted living program to also refer the allegations to the division of consumer protection in the Attorney General's office.

Written Comments: The Baltimore Jewish Council represents the Associated Jewish Community Federation of Baltimore and all of its agencies. Several Associated agencies, including, Jewish Community Services (JCS), Comprehensive Housing Assistance Inc. (CHAI), and CHANA provide services to the rapidly aging Baltimore Community. CHANA has seen an uptick in low-income elder abuse victims who have gone to assisted living facilities that automatically hook up their social security benefits so that the facility gets their benefits automatically. While this is not on its face an indicator of abuse, when there is elder abuse, these victims do not understand the complicated process of stopping the automatic social security payments or worse, are threatened by the assisted living facility, and the become stuck in an unsafe living situation. SB507 will protect more older adults because it requires more transparency from assisted living facilities that are the payee for social security, as well as requiring the attorney general to be noticed of allegations of unfair, abusive or deception trade practices by assisted living facilities

With this in mind, the Baltimore Jewish Council urges a favorable report of SB507.

The Baltimore Jewish Council, a coalition of central Maryland Jewish organizations and congregations, advocates at all levels of government, on a variety of social welfare, economic and religious concerns, to protect and promote the interests of The Associated Jewish Community Federation of Baltimore, its agencies and the Greater Baltimore Jewish community.

BALTIMORE JEWISH COUNCIL

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Member of the Jewish Council for Public Affairs

Baltimore Jewish Council is an agency of The Associated

SB0507 OAG Amendment.pdf

Uploaded by: O'Connor, Patricia

Position: FWA

Senate Bill 507 (Division of Consumer Protection - Assisted Living Programs)

First Reader, Proposed Amendment

On page 3, strike lines 9 through 14 and replace with “THE OFFICE OF HEALTH CARE QUALITY WITHIN THE DEPARTMENT SHALL REFER AN ALLEGATION OF AN UNFAIR, ABUSIVE, OR DECEPTIVE TRADE PRACTICE BY AN ASSISTED LIVING PROGRAM TO THE DIVISION OF CONSUMER PROTECTION OF THE OFFICE OF THE ATTORNEY GENERAL AND TO THE OFFICE OF THE INSPECTOR GENERAL WITHIN THE DEPARTMENT.”

Rationale

The proposed amendment clarifies that separate referrals are to be made by the Office of Health Care Quality to (1) the Division of Consumer Protection in the Office of the Attorney General and (2) the Office of the Inspector General within the Department.

SB0507_FWA_Attorney General.pdf

Uploaded by: O'Connor, Patricia

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February 18, 2021

To: The Honorable Delores G. Kelley
Chair, Finance Committee

From: The Office of the Attorney General

Re: Senate Bill 507 (Division of Consumer Protection - Assisted Living Programs):
Support with Amendments

The Office of the Attorney General supports Senate Bill 507. The bill would require assisted living programs that have been appointed as representative payees for residents' Social Security benefits to file annual reports with the Consumer Protection Division. The representative payees would be required to report on the use of Social Security benefits by the residents, as well as report on the use by the residents of other federal, state, or local government funds that were allocated for the purpose of assisting individuals who are aged, disabled, or blind.

The Division currently receives referrals of alleged unfair, abusive or deceptive trade practices by assisted living programs from the Office of Health Care Quality (OHCQ). We have spoken with the bill's sponsor about clarifying amendments to ensure the referrals continue, whether or not OHCQ refers the same allegations to the Office of the Inspector General for the Department of Health. We are submitting a friendly amendment based on our discussions with the sponsor for submission to the subcommittee.

We urge the Committee to give Senate Bill 507 a favorable report with amendments.

cc: Sponsor