

HOUSE BILL 723

J3, P1

4lr2496
CF 4lr2691

By: **The Speaker (By Request – Office of the Attorney General)**

Introduced and read first time: January 29, 2024

Assigned to: Health and Government Operations and Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Office of the Attorney General – Rights of Residents of Health Care Facilities –**
3 **Injunctive Relief and Penalties**

4 FOR the purpose of authorizing the Attorney General to seek injunctive relief on behalf of
5 the State on the basis of an imminent or ongoing violation of certain rights of
6 residents of certain health care facilities; authorizing the Attorney General to
7 request a court to impose a certain civil penalty on an assisted living program for
8 certain violations; requiring that the resident bill of rights for assisted living
9 program residents include certain rights; and generally relating to the Attorney
10 General and the rights of residents of health care facilities.

11 BY repealing and reenacting, without amendments,
12 Article – Health – General
13 Section 19–343(b)
14 Annotated Code of Maryland
15 (2023 Replacement Volume)

16 BY repealing and reenacting, with amendments,
17 Article – Health – General
18 Section 19–345.3 and 19–1805
19 Annotated Code of Maryland
20 (2023 Replacement Volume)

21 BY adding to
22 Article – Health – General
23 Section 19–1805.1
24 Annotated Code of Maryland
25 (2023 Replacement Volume)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Health – General

19–343.

(b) (1) The General Assembly intends to promote the interests and well-being of each resident of a facility.

(2) It is the policy of this State that, in addition to any other rights, each resident of a facility has the following basic rights:

(i) The right to be treated with consideration, respect, and full recognition of human dignity and individuality;

(ii) The right to receive treatment, care, and services that are adequate, appropriate, and in compliance with relevant State and federal laws, rules, and regulations;

(iii) The right to privacy;

(iv) The right to be free from mental and physical abuse;

(v) The right to notice, procedural fairness, and humane treatment when being transferred or discharged from a facility;

(vi) The right to participate in decision making regarding transitions in care, including a transfer or discharge from a facility;

(vii) The right to expect and receive appropriate assessment, management, and treatment of pain as an integral component of the patient's care;

(viii) The right to be free from physical and chemical restraints, except for restraints that a physician authorizes for a clearly indicated medical need;

(ix) The right to receive respect and privacy in a medical care program; and

(x) The right to manage personal financial affairs.

19–345.3.

(a) The Secretary may impose a civil money penalty not to exceed \$10,000 for:

(1) Each violation by a facility of § 19–345, § 19–345.1, or § 19–345.2 of this subtitle; or

1 (2) Each willful or grossly negligent violation by a resident's agent or legal
2 representative of § 19-345, § 19-345.1, or § 19-345.2 of this subtitle.

3 (b) If a civil money penalty is imposed under this section, the facility or agent or
4 legal representative of the resident shall have the right to appeal from an order imposing
5 the civil money penalty in accordance with Title 10, Subtitle 2 of the State Government
6 Article.

7 (c) (1) A resident, resident's agent, or resident's attorney, or the Attorney
8 General on behalf of the resident, who believes that an involuntary discharge or transfer
9 that violates the requirements of § 19-345, § 19-345.1, or § 19-345.2 of this subtitle is
10 imminent or has taken place may request injunctive relief from a circuit court.

11 (2) **THE ATTORNEY GENERAL MAY SEEK INJUNCTIVE RELIEF ON**
12 **BEHALF OF THE STATE ON THE BASIS OF AN IMMINENT OR ONGOING VIOLATION OF**
13 **A BASIC RIGHT OF RESIDENTS OF FACILITIES PROVIDED UNDER § 19-343(B)(2)(II),**
14 **(IV), (V), (VIII), OR (X) OF THIS SUBTITLE.**

15 (3) In an action brought by the Attorney General under this subsection, the
16 Attorney General may request that the court impose a civil penalty not to exceed \$100,000
17 for each violation by a facility of § 19-345, § 19-345.1, or § 19-345.2 of this subtitle.

18 19-1805.

19 (a) The Department shall:

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

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

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

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

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

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

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

1 (8) Establish a “resident bill of rights” for residents of assisted living
2 program facilities **THAT INCLUDES, AT A MINIMUM:**

3 **(I) THE RIGHT TO BE TREATED WITH CONSIDERATION,**
4 **RESPECT, AND FULL RECOGNITION OF HUMAN DIGNITY AND INDIVIDUALITY;**

5 **(II) THE RIGHT TO RECEIVE TREATMENT, CARE, AND SERVICES**
6 **THAT ARE ADEQUATE, APPROPRIATE, AND IN COMPLIANCE WITH RELEVANT**
7 **FEDERAL AND STATE LAWS, RULES, AND REGULATIONS;**

8 **(III) THE RIGHT TO BE FREE FROM MENTAL AND PHYSICAL**
9 **ABUSE;**

10 **(IV) THE RIGHT TO BE FREE FROM MENTAL, VERBAL, SEXUAL,**
11 **AND PHYSICAL ABUSE, NEGLECT, OR INVOLUNTARY SECLUSION OR EXPLOITATION;**

12 **(V) THE RIGHT TO NOTICE, PROCEDURAL FAIRNESS, AND**
13 **HUMANE TREATMENT WHEN BEING TRANSFERRED OR DISCHARGED FROM A**
14 **FACILITY;**

15 **(VI) THE RIGHT TO PARTICIPATE IN DECISION MAKING**
16 **REGARDING TRANSITIONS IN CARE, INCLUDING A TRANSFER OR DISCHARGE FROM**
17 **A FACILITY;**

18 **(VII) THE RIGHT TO BE FREE FROM PHYSICAL AND CHEMICAL**
19 **RESTRAINTS, EXCEPT FOR RESTRAINTS THAT A PHYSICIAN AUTHORIZES FOR A**
20 **CLEARLY INDICATED MEDICAL NEED; AND**

21 **(VIII) THE RIGHT TO MANAGE PERSONAL FINANCIAL AFFAIRS;**

22 (9) Define which, if any, assisted living programs may be exempt from the
23 requirements of § 19–311 of this title; and

24 (10) For Alzheimer’s special care units:

25 (i) Establish the number of dementia–specific training hours to be
26 completed for those staff working in Alzheimer’s special care units;

27 (ii) Determine the topic content for dementia–specific training
28 required for those staff working in Alzheimer’s special care units; and

29 (iii) Require staff sufficient to meet the needs of residents in
30 Alzheimer’s special care units.

1 (b) (1) The Department, in consultation with representatives of the affected
2 industry and advocates for residents of the facilities and with the approval of the
3 Department of Aging and the Department of Human Services, shall adopt regulations to
4 implement this subtitle.

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

6 (i) Provide for the licensing of assisted living programs;

7 (ii) Require the Department, during a survey or other inspection of
8 an assisted living program, to review the number of waivers granted to the program under
9 subsection (a)(3) of this section and determine whether a change in the program's licensure
10 status is warranted; and

11 (iii) Require an assisted living program facility to post in a
12 conspicuous place visible to actual and potential residents of the facility and other
13 interested parties:

14 1. A. Its statement of deficiencies for the most recent
15 survey;

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

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

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

22 **19-1805.1.**

23 **(A) THE ATTORNEY GENERAL MAY SEEK INJUNCTIVE RELIEF ON BEHALF**
24 **OF THE STATE ON THE BASIS OF AN IMMINENT OR ONGOING VIOLATION OF A BASIC**
25 **RIGHT OF ASSISTED LIVING PROGRAM RESIDENTS PROVIDED UNDER §**
26 **19-1805(A)(8)(I) THROUGH (VIII) OF THIS SUBTITLE.**

27 **(B) IN AN ACTION BROUGHT BY THE ATTORNEY GENERAL UNDER THIS**
28 **SECTION, THE ATTORNEY GENERAL MAY REQUEST THAT THE COURT IMPOSE A**
29 **CIVIL PENALTY NOT TO EXCEED \$10,000 FOR EACH VIOLATION BY AN ASSISTED**
30 **LIVING PROGRAM OF § 19-1805(A)(8)(I) THROUGH (VIII) OF THIS SUBTITLE.**

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
32 1, 2024.