
By: Senators Hollinger, Hoffman, and Boozer

Introduced and read first time: February 2, 1996

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Office on Aging - Continuing Care at Home Providers**

3 FOR the purpose of requiring providers of continuing care at home services to obtain
4 certain certificates of registration prior to entering into certain agreements or
5 providing services; specifying the method of applying for certain certificates of
6 registration; specifying the responsibilities of the Office on Aging in regard to
7 issuing certain certificates of registration; requiring the Office to adopt certain
8 regulations; requiring providers to file a certain feasibility study for approval by the
9 Office; providing for the application of this Act to certain other existing provisions
10 of law; defining a certain term; making certain technical corrections; and generally
11 relating to requiring providers of continuing care at home services to file certain
12 information with the Office on Aging and obtain certain certificates of registration
13 from the Office on Aging prior to entering into certain agreements or providing
14 services.

15 BY adding to

16 Article 70B - Office on Aging
17 Section 22A
18 Annotated Code of Maryland
19 (1995 Replacement Volume)

20 BY repealing and reenacting, with amendments,

21 Article 70B - Office on Aging
22 Section 23
23 Annotated Code of Maryland
24 (1995 Replacement Volume)

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

27 **Article 70B - Office on Aging**

28 22A.

29 (A) IN THIS SECTION:

(1) "CONTINUING CARE AT HOME" MEANS PROVIDING EITHER
 DIRECTLY OR BY CONTRACTUAL ARRANGEMENT MEDICAL, NURSING, OR OTHER
 HEALTH RELATED BENEFITS TO AN INDIVIDUAL 60 YEARS OF AGE OR OLDER WHO
 IS NOT RELATED BY BLOOD OR MARRIAGE TO THE PROVIDER FOR THE LIFE OF THE
 INDIVIDUAL OR FOR A PERIOD IN EXCESS OF 1 YEAR UNDER A WRITTEN
 AGREEMENT THAT REQUIRES A TRANSFER OF ASSETS OR AN ENTRANCE FEE
 NOTWITHSTANDING PERIODIC CHARGES; AND

(2) "CONTINUING CARE AT HOME" SHALL INCLUDE ASSISTANCE WITH
 THE PHYSICAL MAINTENANCE OF THE DWELLING OF AN INDIVIDUAL.

(B) (1) THE OFFICE SHALL ADOPT REGULATIONS THAT SET STANDARDS
 FOR PROVIDERS THAT ENTER INTO CONTINUING CARE AT HOME AGREEMENTS.

(2) THE REGULATIONS SHALL PROVIDE FOR THE CERTIFICATION OF
 CONTINUING CARE AT HOME PROVIDERS AND THE ANNUAL RENEWAL OF
 CERTIFICATES OF REGISTRATION.

(3) THE REGULATIONS SHALL REQUIRE THE OFFICE TO SET THE
 INITIAL CERTIFICATION AND RENEWAL FEES IN A MANNER THAT WILL PRODUCE
 FUNDS SUFFICIENT TO, AT A MINIMUM, COVER THE ACTUAL DIRECT AND INDIRECT
 COSTS OF THE OFFICE TO REGULATE AND CERTIFY CONTINUING CARE AT HOME
 PROVIDERS.

(C) IN ADDITION TO THE PROVISIONS OF SUBSECTION (B) OF THIS SECTION,
 THE REGULATIONS ADOPTED BY THE OFFICE SHALL INCLUDE, AT A MINIMUM,
 PROVISIONS THAT:

(1) PROVIDE FOR AND ENCOURAGE THE ESTABLISHMENT OF
 CONTINUING CARE AT HOME PROJECTS;

(2) SET MINIMUM STANDARDS FOR INDIVIDUALS, WHO WILL BE GOING
 INTO HOMES TO PROVIDE CONTINUING CARE AT HOME SERVICES, THAT ARE
 EMPLOYED BY OR UNDER CONTRACT WITH CONTINUING CARE AT HOME
 PROVIDERS;

(3) REQUIRE CONTINUING CARE AT HOME PROVIDERS TO SCREEN AND
 VERIFY THE CHARACTER REFERENCES OF INDIVIDUALS EMPLOYED BY OR UNDER
 CONTRACT WITH THE PROVIDER WHO WILL BE GOING INTO HOMES TO PROVIDE
 CONTINUING CARE AT HOME SERVICES;

(4) ESTABLISH STANDARDS FOR THE RENEWAL OF CERTIFICATES OF
 REGISTRATION;

(5) ESTABLISH STANDARDS FOR ENTRANCE FEES, DEPOSITS, AND THE
 AMOUNT OF EXECUTED ARRANGEMENTS NECESSARY TO BEGIN OPERATIONS; AND

(6) ESTABLISH REQUIREMENTS FOR WHEN DEPOSITS AND ENTRANCE
 FEES MAY BE RELEASED FROM ESCROW ACCOUNTS.

(D) ANY PROVIDER INTENDING TO DEVELOP A CONTINUING CARE AT HOME
 PROJECT AND PROVIDE CONTINUING CARE AT HOME SERVICES SHALL FILE WITH
 THE OFFICE A STATEMENT OF INTENT AT LEAST 30 DAYS PRIOR TO SUBMISSION OF

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1 THE FEASIBILITY STUDY REQUIRED TO BE FILED UNDER SUBSECTION (E) OF THIS
2 SECTION.

3 (E) (1) A PROVIDER MAY NOT COLLECT DEPOSITS TO PROVIDE
4 CONTINUING CARE AT HOME SERVICES WITHOUT THE APPROVAL OF A FEASIBILITY
5 STUDY BY THE OFFICE.

6 (2) THE FEASIBILITY STUDY SHALL BE FILED IN A FORM SATISFACTORY
7 TO THE OFFICE AND SHALL INCLUDE, AT A MINIMUM, THE FOLLOWING
8 INFORMATION:

9 (I) A STATEMENT OF THE PURPOSE OF THE PROJECT AND THE
10 NEED FOR THE PROPOSED SERVICES;

11 (II) DOCUMENTATION OF THE FINANCIAL RESOURCES OF THE
12 PROVIDER;

13 (III) A PLAN DEMONSTRATING THE FINANCIAL FEASIBILITY OF THE
14 PROPOSED PROJECT, INCLUDING FUTURE FUNDING SOURCES;

15 (IV) AN ACTUARIAL FORECAST THAT HAS BEEN REVIEWED BY A
16 QUALIFIED ACTUARY;

17 (V) A STUDY DEMONSTRATING THE PROPOSED MARKET FOR THE
18 PROJECT;

19 (VI) THE FORM AND SUBSTANCE OF ANY ADVERTISING CAMPAIGN
20 OR PROPOSED ADVERTISEMENT FOR THE PROJECT THAT IS AVAILABLE AT THE
21 TIME OF FILING;

22 (VII) A DETAILED STATEMENT OF THE COVERED SERVICES; AND

23 (VIII) ANY OTHER INFORMATION THAT THE OFFICE MAY REQUIRE.

24 (F) THE OFFICE SHALL APPROVE A FEASIBILITY STUDY FILED UNDER
25 SUBSECTION (E) OF THIS SECTION WHENEVER IT DETERMINES THAT:

26 (1) THE PROPOSED USE OF NEW OR EXISTING HEALTH FACILITIES IS
27 NOT INCONSISTENT WITH THE STATE HEALTH PLAN;

28 (2) A REASONABLE FINANCIAL PLAN HAS BEEN DEVELOPED FOR THE
29 PROVISION OF CONTINUING CARE AT HOME SERVICES, INCLUDING THE NUMBER OF
30 AGREEMENTS TO BE EXECUTED PRIOR TO BEGINNING OPERATIONS AND THE
31 CRITERIA FOR THE RELEASE OF FUNDS FROM ESCROW;

32 (3) A MARKET FOR THE CONTINUING CARE AT HOME PROJECT
33 APPEARS TO EXIST;

34 (4) THE FEASIBILITY STUDY HAS BEEN PREPARED BY A RECOGNIZED
35 AUTHORITY;

36 (5) THE ADVERTISING INFORMATION REQUIRED TO BE SUBMITTED
37 HAS BEEN FILED BY THE PROVIDER AND APPROVED BY THE OFFICE AS NOT BEING
38 DECEPTIVE, MISLEADING, OR LIKELY TO MISLEAD;

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1 (6) THE ACTUARIAL FORECAST SUPPORTS THE MARKET FOR THE
2 PROJECT;

3 (7) THE APPROVED ESCROW AGREEMENT AND DEPOSIT AGREEMENT
4 STATE WHEN DEPOSITS AND ENTRANCE FEES WILL BE RELEASED FROM ESCROW
5 AND A COPY OF THE ESCROW AGREEMENT EXECUTED BY THE PROVIDER AND THE
6 FINANCIAL INSTITUTION HAS BEEN FILED WITH THE OFFICE; AND

7 (8) ANY OTHER INFORMATION REQUESTED BY THE OFFICE HAS BEEN
8 SUBMITTED AND APPROVED.

9 (G) (1) ON APPROVAL OF THE FEASIBILITY STUDY BY THE OFFICE, THE
10 PROVIDER MAY COLLECT DEPOSITS FROM PROSPECTIVE SUBSCRIBERS PROVIDED
11 THE PROVIDER MAINTAINS THE FUNDS COLLECTED IN AN ESCROW ACCOUNT.

12 (2) THE DEPOSITS COLLECTED UNDER PARAGRAPH (1) OF THIS
13 SUBSECTION SHALL BE HELD IN ESCROW UNTIL AT LEAST THE TIME THE PROVIDER
14 HAS BEEN ISSUED A REGISTRATION CERTIFICATE OR ANY OTHER LATER TIME
15 THAT MAY BE PROVIDED BY THE OFFICE BY REGULATION.

16 (H) (1) A PROVIDER MAY NOT ENTER INTO AN AGREEMENT TO PROVIDE
17 CONTINUING CARE AT HOME SERVICES UNTIL THE OFFICE ISSUES THE PROVIDER A
18 PRELIMINARY REGISTRATION CERTIFICATE.

19 (2) AN APPLICATION FOR A PRELIMINARY REGISTRATION CERTIFICATE
20 SHALL BE FILED IN A FORM SATISFACTORY TO THE OFFICE AND SHALL CONTAIN, AT
21 A MINIMUM, THE FOLLOWING INFORMATION:

22 (I) A COPY OF THE AGREEMENT THAT IS TO BE ENTERED INTO
23 BETWEEN THE PROVIDER AND THE SUBSCRIBER FOR THE PROVISION OF
24 CONTINUING CARE AT HOME SERVICES THAT INCLUDES THE FOLLOWING
25 STATEMENT SET FORTH IN PRINT NO SMALLER THAN THE LARGEST TYPE USED IN
26 THE BODY OF THE AGREEMENT:

27 "A CERTIFICATE OF REGISTRATION IS NOT AN ENDORSEMENT OR GUARANTEE
28 OF THIS CONTINUING CARE AT HOME PROVIDER BY THE STATE OF MARYLAND. THE
29 MARYLAND OFFICE ON AGING URGES YOU TO CONSULT AN ATTORNEY AND A
30 SUITABLE FINANCIAL ADVISOR BEFORE SIGNING ANY DOCUMENTS.";

31 (II) THE FORM AND SUBSTANCE OF ANY ADVERTISING CAMPAIGN
32 OR PROPOSED ADVERTISEMENT FOR THE PROVIDER THAT IS AVAILABLE AT THE
33 TIME OF FILING FOR THE PRELIMINARY REGISTRATION CERTIFICATE THAT HAS
34 NOT BEEN FILED PREVIOUSLY WITH THE OFFICE; AND

35 (III) ANY OTHER INFORMATION THAT THE OFFICE MAY REQUIRE.

36 (I) THE OFFICE SHALL ISSUE A PRELIMINARY CERTIFICATE OF
37 REGISTRATION TO A PROVIDER WHENEVER IT DETERMINES THAT:

38 (1) THE AGREEMENT TO BE ENTERED INTO BETWEEN THE PROVIDER
39 AND THE SUBSCRIBER IS SATISFACTORY;

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1 (2) THE ADVERTISING INFORMATION REQUIRED TO BE SUBMITTED
2 HAS BEEN FILED BY THE PROVIDER AND APPROVED BY THE OFFICE AS NOT BEING
3 DECEPTIVE, MISLEADING, OR LIKELY TO MISLEAD;

4 (3) THE INFORMATION AND DOCUMENTS SUBMITTED WITH THE
5 FEASIBILITY STUDY UNDER SUBSECTION (E) OF THIS SECTION REMAIN CURRENT
6 AND ACCURATE OR HAVE BEEN UPDATED TO MAKE THEM ACCURATE; AND

7 (4) ANY OTHER INFORMATION THAT THE OFFICE REQUESTS FOR
8 SUBMISSION.

9 (J) (1) A PROVIDER MAY NOT BEGIN TO PROVIDE CONTINUING CARE AT
10 HOME SERVICES UNTIL THE PROVIDER HAS OBTAINED A CERTIFICATE OF
11 REGISTRATION FROM THE OFFICE.

12 (2) AN APPLICATION FOR A CERTIFICATE OF REGISTRATION SHALL BE
13 FILED IN A FORM SATISFACTORY TO THE OFFICE AND SHALL CONTAIN, AT A
14 MINIMUM, THE FOLLOWING INFORMATION:

15 (I) VERIFICATION THAT THE REQUISITE NUMBER OF
16 AGREEMENTS HAVE BEEN EXECUTED AND THE CORRESPONDING DEPOSITS
17 COLLECTED;

18 (II) THE FORM AND SUBSTANCE OF THE ADVERTISING CAMPAIGN
19 OR PROPOSED ADVERTISEMENT FOR THE PROVIDER THAT IS AVAILABLE AT THE
20 TIME OF FILING FOR THE CERTIFICATE OF REGISTRATION THAT HAS NOT BEEN
21 FILED PREVIOUSLY WITH THE OFFICE;

22 (III) THE ISSUANCE TO THE PROVIDER OF ANY OTHER LICENSES OR
23 CERTIFICATES REQUIRED BY OTHER APPROPRIATE STATE AGENCIES; AND

24 (IV) ANY OTHER INFORMATION THAT THE OFFICE MAY REQUIRE.

25 (K) THE OFFICE SHALL ISSUE A CERTIFICATE OF REGISTRATION TO A
26 PROVIDER WHENEVER THE OFFICE DETERMINES THAT:

27 (1) THE INFORMATION AND DOCUMENTS SUBMITTED WITH THE
28 FEASIBILITY STUDY AND APPLICATION FOR A PRELIMINARY CERTIFICATE OF
29 REGISTRATION REMAIN CURRENT AND ACCURATE OR HAVE BEEN UPDATED TO
30 MAKE THEM ACCURATE;

31 (2) THE REQUISITE NUMBER OF AGREEMENTS HAVE BEEN EXECUTED
32 AND THE CORRESPONDING DEPOSITS COLLECTED;

33 (3) THE PROVIDER HAS BEEN ISSUED ANY OTHER LICENSES OR
34 CERTIFICATES REQUIRED BY OTHER APPROPRIATE STATE AGENCIES;

35 (4) THE ADVERTISING INFORMATION REQUIRED TO BE SUBMITTED
36 HAS BEEN FILED BY THE PROVIDER AND APPROVED BY THE OFFICE AS NOT BEING
37 DECEPTIVE, MISLEADING, OR LIKELY TO MISLEAD; AND

38 (5) ANY OTHER INFORMATION THAT WAS REQUIRED BY THE OFFICE
39 HAS BEEN SUBMITTED.

1 (L) IF THE PROVIDER INTENDS TO ADVERTISE PRIOR TO BEING ISSUED A
2 REGISTRATION CERTIFICATE UNDER SUBSECTION (K) OF THIS SECTION, THE
3 PROVIDER SHALL SUBMIT THE ADVERTISEMENT OR ADVERTISING CAMPAIGN TO
4 THE OFFICE FOR APPROVAL PRIOR TO ADVERTISING.

5 (M) IF A CERTIFICATE OF REGISTRATION IS NOT ISSUED TO A PROVIDER
6 WITHIN 24 MONTHS OF THE APPROVAL BY THE OFFICE OF A FEASIBILITY STUDY, OR
7 ANY LONGER TIME THAT MAY BE ALLOWED BY THE OFFICE FOR GOOD CAUSE
8 SHOWN, THE PROVIDER SHALL REFUND ALL DEPOSITS COLLECTED AND CEASE ITS
9 ATTEMPTS TO OFFER CONTINUING CARE AT HOME SERVICES PURSUANT TO THAT
10 APPLICATION.

11 (N) (1) EACH YEAR, WITHIN 120 DAYS AFTER THE END OF ITS FISCAL YEAR,
12 A PROVIDER SHALL FILE AN APPLICATION WITH THE OFFICE FOR RENEWAL OF A
13 CERTIFICATE OF REGISTRATION IN A FORM SATISFACTORY TO THE OFFICE.

14 (2) THE APPLICATION SHALL CONTAIN ANY REASONABLE AND
15 PERTINENT INFORMATION THAT THE OFFICE MAY REQUIRE.

16 (3) THE OFFICE SHALL ISSUE A RENEWAL OF A CERTIFICATE OF
17 REGISTRATION WHENEVER IT DETERMINES THAT:

18 (I) ALL DOCUMENTS REQUIRED TO BE FILED HAVE BEEN FILED
19 AND FOUND BY THE OFFICE TO BE SATISFACTORY;

20 (II) ANY REVISED AGREEMENTS FOR CONTINUING CARE AT HOME
21 SERVICES MEET THE REQUIREMENTS OF THE OFFICE;

22 (III) THE PROPOSED USE OF NEW OR EXISTING HEALTH FACILITIES
23 IS NOT INCONSISTENT WITH THE STATE HEALTH PLAN; AND

24 (IV) THE ADVERTISING INFORMATION REQUIRED TO BE
25 SUBMITTED HAS BEEN FILED BY THE PROVIDER AND APPROVED BY THE OFFICE AS
26 NOT BEING DECEPTIVE, MISLEADING, OR LIKELY TO MISLEAD.

27 (O) EXCEPT FOR §§ 10, 11, 14, AND 15 OF THIS SUBTITLE, CONTINUING CARE AT
28 HOME PROVIDERS ARE SUBJECT TO THE PROVISIONS OF §§ 7 THROUGH 23 OF THIS
29 SUBTITLE.

30 23.

31 Any operation subject to the provisions of this subtitle shall not be subject to the
32 provisions of the Health Maintenance Organization Act of the Health - General Article,
33 Article 48A OF THE CODE, except § 470N, or Title 8 of the Real PropertyArticle [of the
34 Maryland Annotated Code]. IF A PROVIDER CONTRACTS WITH A LICENSED HOME
35 HEALTH AGENCY OR RESIDENTIAL SERVICE AGENCY TO PROVIDE SERVICES AND
36 THE PROVIDER IS NOT DIRECTLY PROVIDING THE TYPE OF SERVICES PROVIDED BY
37 A HOME HEALTH AGENCY OR RESIDENTIAL SERVICE AGENCY, THE PROVIDER IS
38 NOT SUBJECT TO THE PROVISIONS OF TITLE 19, SUBTITLES 4 AND 4A OF THE HEALTH
39 - GENERAL ARTICLE. Under § 470N of Article 48A, the liability of the provider to the
40 State Department of Health and Mental Hygiene shall be limited to the amount of money
41 which would be due as a refund if the subscriber were dismissed under §15 at the time of

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1 enrollment in services rendered by, or paid in full or in part by the State Department of
2 Health and Mental Hygiene.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 1996.