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**By: Senators Hollinger, Hoffman, and ~~Boozer~~ Boozer, Astle, Bromwell, Hafer, and  
Roesser**

Introduced and read first time: February 2, 1996

Assigned to: Finance

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 22, 1996

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CHAPTER \_\_\_\_

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, including regulations to set minimum requirements, require criminal  
9 history records checks, require verifications of references for individuals going into  
10 homes, establish standards for rescinding continuing care at home agreements, and  
11 establish circumstances for a provider to terminate agreements or discharge a  
12 subscriber; requiring providers to file a certain feasibility study for approval by the  
13 Office; requiring the Office to conduct a certain review; providing for the  
14 application of this Act to certain other existing provisions of law; defining a certain  
15 term; making certain technical corrections; and generally relating to requiring  
16 providers of continuing care at home services to file certain information with the  
17 Office on Aging and obtain certain certificates of registration from the Office on  
18 Aging prior to entering into certain agreements or providing services.

19 BY adding to

20 Article 70B - Office on Aging

21 Section 22A

22 Annotated Code of Maryland

23 (1995 Replacement Volume)

24 BY repealing and reenacting, with amendments,

25 Article 70B - Office on Aging

2

1 Section 23  
2 Annotated Code of Maryland  
3 (1995 Replacement Volume)

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

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

7 22A.

8 (A) IN THIS SECTION:

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

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

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

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

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

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

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

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

37 (2) SUBJECT TO THE PROVISIONS OF SUBSECTION (P) OF THIS SECTION,  
38 SET MINIMUM REQUIREMENTS FOR INDIVIDUALS EMPLOYED BY OR UNDER  
39 CONTRACT WITH CONTINUING CARE AT HOME PROVIDERS WHO WILL BE GOING  
40 INTO HOMES TO PROVIDE CONTINUING CARE AT HOME SERVICES;

1                   (3) REQUIRE A CRIMINAL HISTORY RECORDS CHECK FOR INDIVIDUALS  
2 EMPLOYED BY OR UNDER CONTRACT WITH A CONTINUING CARE AT HOME  
3 PROVIDER WHO WILL BE GOING INTO HOMES TO PROVIDE CONTINUING CARE AT  
4 HOME SERVICES AND WHO WILL HAVE ROUTINE, DIRECT ACCESS TO SUBSCRIBERS;

5                   ~~(3)~~ (4) REQUIRE CONTINUING CARE AT HOME PROVIDERS TO  
6 SCREEN AND VERIFY THE CHARACTER REFERENCES OF INDIVIDUALS EMPLOYED  
7 BY OR UNDER CONTRACT WITH THE PROVIDER WHO WILL BE GOING INTO HOMES  
8 TO PROVIDE CONTINUING CARE AT HOME SERVICES;

9                   ~~(4)~~ (5) ESTABLISH STANDARDS FOR THE RENEWAL OF CERTIFICATES  
10 OF REGISTRATION;

11                   ~~(5)~~ (6) ESTABLISH STANDARDS FOR ENTRANCE FEES, DEPOSITS, AND  
12 ~~THE AMOUNT~~ NUMBER OF EXECUTED ARRANGEMENTS AGREEMENTS NECESSARY  
13 TO BEGIN OPERATIONS; ~~AND~~

14                   ~~(6)~~ (7) ESTABLISH REQUIREMENTS FOR WHEN DEPOSITS AND  
15 ENTRANCE FEES MAY BE RELEASED FROM ESCROW ACCOUNTS;

16                   (8) ESTABLISH STANDARDS SETTING FORTH WHEN AND HOW A  
17 SUBSCRIBER OR PROVIDER MAY RESCIND A CONTINUING CARE AT HOME  
18 AGREEMENT PRIOR TO A PROVIDER BEGINNING TO PROVIDE CONTINUING CARE AT  
19 HOME SERVICES TO THAT SUBSCRIBER;

20                   (9) PROVIDE FOR A SUBSCRIBER TO RESCIND A CONTINUING CARE AT  
21 HOME AGREEMENT AT ANY TIME IF THE TERMS OF THE AGREEMENT ARE IN  
22 VIOLATION OF THE TERMS OF THIS SUBTITLE; AND

23                   (10) ESTABLISH THAT A PROVIDER CAN ONLY TERMINATE AN  
24 AGREEMENT OR DISCHARGE A SUBSCRIBER FOR JUST CAUSE AND PROVIDE HOW  
25 SUCH A TERMINATION OR DISCHARGE WOULD BE CARRIED OUT.

26                   (D) ANY PROVIDER INTENDING TO DEVELOP A CONTINUING CARE AT HOME  
27 PROJECT AND PROVIDE CONTINUING CARE AT HOME SERVICES SHALL FILE WITH  
28 THE OFFICE A STATEMENT OF INTENT AT LEAST 30 DAYS PRIOR TO SUBMISSION OF  
29 THE FEASIBILITY STUDY REQUIRED TO BE FILED UNDER SUBSECTION (E) OF THIS  
30 SECTION.

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

34                   (2) THE FEASIBILITY STUDY SHALL BE FILED IN A FORM SATISFACTORY  
35 TO THE OFFICE AND SHALL INCLUDE, AT A MINIMUM, THE FOLLOWING  
36 INFORMATION:

37                   (I) A STATEMENT OF THE PURPOSE OF THE PROJECT AND THE  
38 NEED FOR THE PROPOSED SERVICES;

39                   (II) DOCUMENTATION OF THE FINANCIAL RESOURCES OF THE  
40 PROVIDER;

4

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

3 (IV) AN ACTUARIAL FORECAST THAT HAS BEEN REVIEWED BY A  
4 QUALIFIED ACTUARY;

5 (V) A STUDY DEMONSTRATING THE PROPOSED MARKET FOR THE  
6 PROJECT;

7 (VI) THE FORM AND SUBSTANCE OF ANY ADVERTISING CAMPAIGN  
8 OR PROPOSED ADVERTISEMENT FOR THE PROJECT THAT IS AVAILABLE AT THE  
9 TIME OF FILING;

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

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

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

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

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

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

22 (4) THE FEASIBILITY STUDY HAS BEEN PREPARED BY A RECOGNIZED  
23 AUTHORITY;

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

27 (6) THE ACTUARIAL FORECAST SUPPORTS THE MARKET FOR THE  
28 PROJECT;

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

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

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

5

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

6 (H) (1) A PROVIDER MAY NOT ENTER INTO AN AGREEMENT TO PROVIDE  
7 CONTINUING CARE AT HOME SERVICES UNTIL THE OFFICE ISSUES THE PROVIDER A  
8 PRELIMINARY ~~REGISTRATION CERTIFICATE~~ CERTIFICATE OF REGISTRATION.

9 (2) AN APPLICATION FOR A PRELIMINARY ~~REGISTRATION CERTIFICATE~~  
10 CERTIFICATE OF REGISTRATION SHALL BE FILED IN A FORM SATISFACTORY TO THE  
11 OFFICE AND SHALL CONTAIN, AT A MINIMUM, THE FOLLOWING INFORMATION:

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

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

21 (II) THE FORM AND SUBSTANCE OF ANY ADVERTISING CAMPAIGN  
22 OR PROPOSED ADVERTISEMENT FOR THE PROVIDER THAT IS AVAILABLE AT THE  
23 TIME OF FILING FOR THE PRELIMINARY ~~REGISTRATION CERTIFICATE~~ CERTIFICATE  
24 OF REGISTRATION THAT HAS NOT BEEN FILED PREVIOUSLY WITH THE OFFICE; AND

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

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

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

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

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

36 (4) ANY OTHER INFORMATION THAT THE OFFICE REQUESTS FOR  
37 SUBMISSION.

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

6

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

4 (I) VERIFICATION THAT THE REQUISITE NUMBER OF  
5 AGREEMENTS HAVE BEEN EXECUTED AND THE CORRESPONDING DEPOSITS  
6 COLLECTED;

7 (II) THE FORM AND SUBSTANCE OF THE ADVERTISING CAMPAIGN  
8 OR PROPOSED ADVERTISEMENT FOR THE PROVIDER THAT IS AVAILABLE AT THE  
9 TIME OF FILING FOR THE CERTIFICATE OF REGISTRATION THAT HAS NOT BEEN  
10 FILED PREVIOUSLY WITH THE OFFICE;

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

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

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

16 (1) THE INFORMATION AND DOCUMENTS SUBMITTED WITH THE  
17 FEASIBILITY STUDY AND APPLICATION FOR A PRELIMINARY CERTIFICATE OF  
18 REGISTRATION REMAIN CURRENT AND ACCURATE OR HAVE BEEN UPDATED TO  
19 MAKE THEM ACCURATE;

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

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

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

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

29 (L) IF THE PROVIDER INTENDS TO ADVERTISE PRIOR TO BEING ISSUED A  
30 ~~REGISTRATION CERTIFICATE~~ CERTIFICATE OF REGISTRATION UNDER SUBSECTION  
31 (K) OF THIS SECTION, THE PROVIDER SHALL SUBMIT THE ADVERTISEMENT OR  
32 ADVERTISING CAMPAIGN TO THE OFFICE FOR APPROVAL PRIOR TO ADVERTISING.

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

7

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

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

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

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

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

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

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

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

20 (P) CONTINUING CARE AT HOME PROVIDERS SHALL BE SUBJECT TO ALL  
21 OTHER APPLICABLE LICENSING OR CERTIFICATION REQUIREMENTS OF MARYLAND  
22 LAW, EXCEPT AS PROVIDED IN § 23 OF THIS SUBTITLE.

23 23.

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

37 SECTION 2. AND BE IT FURTHER ENACTED, That, to the extent it has  
38 access to necessary documents, the Office on Aging shall review, during the renewal of a  
39 continuing care at home provider's certificate of registration, the frequency of bequests by  
40 continuing care at home subscribers to individuals employed by or under contract with the

SENATE BILL 544

8

1 continuing care at home provider to go into homes to provide continuing care at home  
2 services.

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