

BY: Environmental Matters Committee

AMENDMENTS TO HOUSE BILL NO. 359
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 3, after “of” insert “altering the requirements for a certain disclosure statement furnished by a continuing care provider; specifying the contents of the disclosure statement with regard to assisted living program services; requiring a provider to annually furnish the revised disclosure statement to each subscriber, ensure that each subscriber initials the revised disclosure statement, and make the revised disclosure statement available to the Department of Health and Mental Hygiene to inspect; requiring a provider to maintain a continuing care agreement on site and make it available for inspection; specifying the contents of the continuing care agreement with regard to assisted living program services; giving a continuing care provider a certain choice relating to the execution of certain agreements and certain statements or meeting certain requirements;”; after line 14, insert:

“BY renumbering

Article 70B - Department of Aging
Section 7(b) through (p), respectively
to be Section 7(c) through (q), respectively
Annotated Code of Maryland
(1998 Replacement Volume)

BY adding to

Article 70B - Department of Aging
Section 7(b), 11C(f), and 13(c) and (d)
Annotated Code of Maryland
(1998 Replacement Volume)

BY repealing and reenacting, without amendments,

Article 70B - Department of Aging

(Over)

Section 11C(a) and (b)
Annotated Code of Maryland
(1998 Replacement Volume)

BY repealing and reenacting, with amendments,

Article 70B - Department of Aging
Section 23
Annotated Code of Maryland
(1998 Replacement Volume)”;

and in line 21, strike “the Laws of Maryland read as follows:” and substitute “Section(s) 7(b) through (p), respectively, of Article 70B - Department of Aging of the Annotated Code of Maryland be renumbered to be Section(s) 7(c) through (q), respectively.”.

AMENDMENT NO. 2

On page 1, after line 21, insert:

“SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article 70B - Department of Aging

7.

(B) “ASSISTED LIVING PROGRAM” HAS THE MEANING STATED IN § 19-1801 OF THE HEALTH - GENERAL ARTICLE.

11C.

(a) (1) The provider shall furnish without cost to all prospective subscribers, before payment of any part of the entrance fee or, if earlier, the execution of a continuing care agreement, and annually to all subscribers on request, a disclosure statement for each facility of the provider holding a preliminary certificate of registration or a certificate of registration.

(2) The provider shall submit its initial disclosure statement to the Department for review at least 45 days before distributing the statement to any prospective subscribers.

(b) (1) The provider shall revise the disclosure statement annually and file the disclosure statement with the Department within 120 days after the end of the provider's fiscal year.

(2) The Department shall review the disclosure statement solely to ensure compliance with this section.

(F) (1) IN ADDITION TO ANY OTHER REQUIREMENTS OF THIS SECTION, IF A PROVIDER'S CONTINUING CARE AGREEMENT INCLUDES A PROVISION TO PROVIDE ASSISTED LIVING PROGRAM SERVICES AND THE PROVIDER DOES NOT EXECUTE A SEPARATE ASSISTED LIVING AGREEMENT, THE DISCLOSURE STATEMENT SHALL CONTAIN WITH REGARD TO THE ASSISTED LIVING PROGRAM:

(I) THE NAME AND ADDRESS AND A DESCRIPTION OF EACH FACILITY THAT THE PROVIDER OPERATES;

(II) A STATEMENT REGARDING THE RELATIONSHIP OF THE PROVIDER TO OTHER PROVIDERS OR SERVICES IF THE RELATIONSHIP AFFECTS THE CARE OF THE RESIDENT;

(III) A DESCRIPTION OF ANY SPECIAL PROGRAMING, STAFFING, AND TRAINING PROVIDED BY THE PROGRAM FOR INDIVIDUALS WITH PARTICULAR NEEDS OR CONDITIONS SUCH AS COGNITIVE IMPAIRMENT;

(IV) NOTICE OF:

1. THE AVAILABILITY OF LOCKS FOR STORAGE;
2. THE AVAILABILITY OF LOCKS, IF ANY, FOR THE SUBSCRIBER'S ROOM;

3. THE SECURITY PROCEDURES WHICH THE PROVIDER SHALL IMPLEMENT TO PROTECT THE SUBSCRIBER AND THE SUBSCRIBER'S PROPERTY; AND

(Over)

4. THE PROVIDER'S RIGHT, IF ANY, TO ENTER A SUBSCRIBER'S ROOM;

(V) A STATEMENT OF THE OBLIGATIONS OF THE PROVIDER, THE SUBSCRIBER, OR THE SUBSCRIBER'S AGENT AS TO:

1. ARRANGING FOR OR OVERSEEING MEDICAL CARE;
2. MONITORING THE HEALTH STATUS OF THE SUBSCRIBER;

3. PURCHASING OR RENTING ESSENTIAL OR DESIRED EQUIPMENT AND SUPPLIES; AND

4. ASCERTAINING THE COST OF AND PURCHASING OF DURABLE MEDICAL EQUIPMENT;

(VI) AN EXPLANATION OF THE ASSISTED LIVING PROGRAM'S COMPLAINT OR GRIEVANCE PROCEDURE; AND

(VII) NOTICE OF ANY MATERIAL CHANGES IN THE ASSISTED LIVING PROGRAM.

(2) THE PROVIDER SHALL:

(I) FURNISH ANNUALLY WITHOUT COST TO EACH SUBSCRIBER REVISIONS TO THE DISCLOSURE STATEMENT PROVISIONS UNDER PARAGRAPH (1) OF THIS SUBSECTION;

(II) ENSURE THAT EACH SUBSCRIBER, OR THE SUBSCRIBER'S AGENT, INITIALS THE REVISED DISCLOSURE STATEMENT TO INDICATE ACKNOWLEDGMENT OF THE REVISIONS; AND

(III) MAKE AVAILABLE A COPY OF EACH INITIALED DISCLOSURE STATEMENT FOR INSPECTION BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE UNDER TITLE 19, SUBTITLE 18 OF THE HEALTH - GENERAL ARTICLE.

13.

(C) THE PROVIDER SHALL MAINTAIN THE CONTINUING CARE AGREEMENT ON SITE AND MAKE IT AVAILABLE FOR INSPECTION BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE UNDER TITLE 19, SUBTITLE 18 OF THE HEALTH - GENERAL ARTICLE.

(D) IN ADDITION TO ANY OTHER REQUIREMENTS OF THIS SECTION, IF A PROVIDER'S CONTINUING CARE AGREEMENT INCLUDES A PROVISION TO PROVIDE ASSISTED LIVING PROGRAM SERVICES AND THE PROVIDER DOES NOT EXECUTE A SEPARATE ASSISTED LIVING AGREEMENT, EACH CONTINUING CARE AGREEMENT EXECUTED BETWEEN A SUBSCRIBER AND A PROVIDER SHALL INCLUDE WITH REGARD TO THE ASSISTED LIVING PROGRAM:

(1) A STATEMENT OF THE LEVEL OF CARE FOR WHICH THE ASSISTED LIVING PROGRAM IS LICENSED;

(2) AS PART OF THE PROCEDURES TO BE FOLLOWED UNDER SUBSECTION (A)(4) OF THIS SECTION, IF THE SUBSCRIBER IS TRANSFERRED TO AN ASSISTED LIVING PROGRAM, THE PROCEDURES TO BE FOLLOWED BY THE PROVIDER FOR NOTIFYING THE SUBSCRIBER OF THE LEVEL OF CARE NEEDED BY THE SUBSCRIBER;

(3) A STATEMENT INDICATING THE OPTIONS AVAILABLE TO A SUBSCRIBER IF THE SUBSCRIBER'S LEVEL OF CARE, AFTER ADMISSION TO AN ASSISTED LIVING PROGRAM, EXCEEDS THE LEVEL OF CARE FOR WHICH THE PROVIDER IS LICENSED;

(Over)

(4) BASED ON A SAMPLE LIST OF ASSISTED LIVING PROGRAM SERVICES MAINTAINED BY THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, A STATEMENT OF THOSE SERVICES PROVIDED BY THE ASSISTED LIVING PROGRAM AND THOSE SERVICES NOT PROVIDED BY THE ASSISTED LIVING PROGRAM;

(5) A STATEMENT OF THE OBLIGATIONS OF THE PROVIDER AND THE SUBSCRIBER OR THE SUBSCRIBER'S AGENT AS TO HANDLING THE FINANCES OF THE SUBSCRIBER;

(6) A STATEMENT OF THE OBLIGATIONS OF THE PROVIDER AND THE SUBSCRIBER OR THE SUBSCRIBER'S AGENT AS TO DISPOSITION OF THE SUBSCRIBER'S PROPERTY UPON DISCHARGE OR DEATH OF THE SUBSCRIBER; AND

(7) THE APPLICABLE RATE STRUCTURE AND PAYMENT PROVISIONS COVERING:

(I) ALL RATES TO BE CHARGED TO THE SUBSCRIBER, INCLUDING:

1. SERVICE PACKAGES;
2. FEE FOR SERVICE RATES; AND
3. ANY OTHER NONSERVICE-RELATED CHARGES;

(II) CRITERIA TO BE USED FOR IMPOSING ADDITIONAL CHARGES FOR THE PROVISION OF ADDITIONAL SERVICES, IF THE SUBSCRIBER'S SERVICE AND CARE NEEDS CHANGE;

(III) PAYMENT ARRANGEMENTS AND FEES, IF KNOWN, FOR THIRD-PARTY SERVICES NOT COVERED BY THE CONTINUING CARE AGREEMENT, BUT ARRANGED FOR BY EITHER THE SUBSCRIBER, THE SUBSCRIBER'S AGENT, OR THE ASSISTED LIVING PROGRAM;

(IV) IDENTIFICATION OF THE PERSONS RESPONSIBLE FOR PAYMENT OF ALL FEES AND CHARGES AND A CLEAR INDICATION OF WHETHER THE PERSON'S RESPONSIBILITY IS OR IS NOT LIMITED TO THE EXTENT OF THE SUBSCRIBER'S FUNDS;

(V) A PROVISION FOR AT LEAST 45 DAYS' NOTICE OF ANY RATE INCREASE, EXCEPT IF NECESSITATED BY A CHANGE IN THE SUBSCRIBER'S MEDICAL CONDITION; AND

(VI) FAIR AND REASONABLE BILLING AND PAYMENT POLICIES.

23.

(A) Any operation subject to the provisions of this subtitle shall not be subject to the provisions of the Health Maintenance Organization Act of the Health - General Article; the Insurance Article, except § 15-603 of the Insurance Article; Title 8 of the Real Property Article; or any county or municipal landlord-tenant law. If a provider contractually utilizes the services of a licensed home health agency or residential service agency and is not itself directly providing the type of services provided by a home health or residential service agency, then the provider shall not be subject to the provisions of Title 19, Subtitles 4 and 4A of the Health - General Article of the Maryland Annotated Code. Under § 15-603 of the Insurance Article, the liability of the provider to the State Department of Health and Mental Hygiene shall be limited to the amount of money which would be due as a refund if the subscriber were dismissed under § 15 at the time of enrollment in services rendered by, or paid in full or in part by the State Department of Health and Mental Hygiene.

(B) A PROVIDER THAT OFFERS ASSISTED LIVING PROGRAM SERVICES AS PART OF A CONTINUUM OF CARE IN ACCORDANCE WITH A CONTINUING CARE AGREEMENT SHALL HAVE THE CHOICE OF:

(1) EXECUTING A SEPARATE ASSISTED LIVING RESIDENT AGREEMENT AND A SEPARATE ASSISTED LIVING DISCLOSURE STATEMENT; OR

(Over)

(2) MEETING THE REQUIREMENTS OF §§ 11C(F) AND 13(D) OF THIS SUBTITLE.”.

AMENDMENT NO. 3

On page 2, in line 5, after “AGREEMENT” insert “THAT DOES NOT REQUIRE A SUBSCRIBER TO EXECUTE A SEPARATE ASSISTED LIVING AGREEMENT TO RECEIVE THOSE SERVICES”; in line 6, after “SECTION” insert “THAT MEETS THE REQUIREMENTS OF ARTICLE 70B OF THE CODE WITH REGARD TO ASSISTED LIVING”; in line 9, after “SUBSECTION,” insert “IF A SEPARATE ASSISTED LIVING RESIDENT AGREEMENT IS NOT UTILIZED,”; in lines 12 and 13, strike “INCLUDES AN ASSISTED LIVING PROGRAM SUBJECT TO THIS SECTION” and substitute “CONTAINS A PROVISION TO PROVIDE ASSISTED LIVING PROGRAM SERVICES AND DOES NOT REQUIRE A SUBSCRIBER TO EXECUTE A SEPARATE ASSISTED LIVING AGREEMENT TO RECEIVE THOSE SERVICES”; in line 14, after “PROVISIONS” insert “, EXCEPT AS REQUIRED UNDER ARTICLE 70B OF THE CODE,”; and in line 32, strike “2.” and substitute “3.”.