

HOUSE BILL 359

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1999 Regular Session
9lr0762
CF 9lr0602

By: **Delegates Hammen and Hubbard**
Introduced and read first time: February 8, 1999
Assigned to: Environmental Matters

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 22, 1999

CHAPTER _____

1 AN ACT concerning

2 **Assisted Living Programs - Continuing Care Communities - Requirements**

3 FOR the purpose of altering the requirements for a certain disclosure statement
4 furnished by a continuing care provider; specifying the contents of the disclosure
5 statement with regard to assisted living program services; requiring a provider
6 to annually furnish the revised disclosure statement to each subscriber, ensure
7 that each subscriber initials the revised disclosure statement, and make the
8 revised disclosure statement available to the Department of Health and Mental
9 Hygiene to inspect; requiring a provider to maintain a continuing care
10 agreement on site and make it available for inspection; specifying the contents
11 of the continuing care agreement with regard to assisted living program
12 services; giving a continuing care provider a certain choice relating to the
13 execution of certain agreements and certain statements or meeting certain
14 requirements; specifying that certain assisted living programs are not required
15 to execute an assisted living resident agreement in addition to a continuing care
16 agreement or provide certain separate disclosures under certain circumstances;
17 specifying that certain continuing care agreements are not required to contain
18 certain contract provisions that are applicable to certain assisted living
19 programs under certain circumstances; specifying that certain resident
20 transfers from certain assisted living programs may not be considered a
21 relocation or discharge from the assisted living program for the purpose of
22 triggering certain regulatory requirements; providing for the application of this
23 Act; defining certain terms; and generally relating to specifying certain
24 requirements for assisted living programs that provide assisted living program
25 services as part of a continuum of care.

26 BY renumbering
27 Article 70B - Department of Aging

1 Section 7(b) through (p), respectively
 2 to be Section 7(c) through (q), respectively
 3 Annotated Code of Maryland
 4 (1998 Replacement Volume)

5 BY adding to
 6 Article 70B - Department of Aging
 7 Section 7(b), 11C(f), and 13(c) and (d)
 8 Annotated Code of Maryland
 9 (1998 Replacement Volume)

10 BY repealing and reenacting, without amendments,
 11 Article 70B - Department of Aging
 12 Section 11C(a) and (b)
 13 Annotated Code of Maryland
 14 (1998 Replacement Volume)

15 BY repealing and reenacting, with amendments,
 16 Article 70B - Department of Aging
 17 Section 23
 18 Annotated Code of Maryland
 19 (1998 Replacement Volume)

20 BY adding to
 21 Article - Health - General
 22 Section 19-1806
 23 Annotated Code of Maryland
 24 (1996 Replacement Volume and 1998 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 26 MARYLAND, That ~~the Laws of Maryland read as follows:~~ Section(s) 7(b) through (p),
 27 respectively, of Article 70B - Department of Aging of the Annotated Code of Maryland
 28 be renumbered to be Section(s) 7(c) through (q), respectively.

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

31 **Article 70B - Department of Aging**

32 7.

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

1 11C.

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

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

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

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

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

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

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

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

28 (IV) NOTICE OF:

29 1. THE AVAILABILITY OF LOCKS FOR STORAGE;

30 2. THE AVAILABILITY OF LOCKS, IF ANY, FOR THE
31 SUBSCRIBER'S ROOM;

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

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

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

3 1. ARRANGING FOR OR OVERSEEING MEDICAL CARE;

4 2. MONITORING THE HEALTH STATUS OF THE SUBSCRIBER;

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

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

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

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

13 (2) THE PROVIDER SHALL:

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

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

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

23 13.

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

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

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

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

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

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

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

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

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

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

23 1. SERVICE PACKAGES;

24 2. FEE FOR SERVICE RATES; AND

25 3. ANY OTHER NONSERVICE-RELATED CHARGES;

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

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

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

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

4 (VI) FAIR AND REASONABLE BILLING AND PAYMENT POLICIES.

5 23.

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

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

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

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

26 **Article - Health - General**

27 19-1806.

28 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
 29 INDICATED.

30 (2) "CONTINUING CARE" HAS THE MEANING STATED IN ARTICLE 70B OF
 31 THE CODE.

32 (3) "CONTINUING CARE AGREEMENT" HAS THE MEANING STATED IN
 33 ARTICLE 70B OF THE CODE.

34 (B) THIS SECTION APPLIES TO ASSISTED LIVING PROGRAMS THAT OFFER
 35 ASSISTED LIVING PROGRAM SERVICES AS PART OF A CONTINUUM OF CARE IN
 36 ACCORDANCE WITH A CONTINUING CARE AGREEMENT THAT DOES NOT REQUIRE A
 37 SUBSCRIBER TO EXECUTE A SEPARATE ASSISTED LIVING AGREEMENT TO RECEIVE
 38 THOSE SERVICES.

1 (C) (1) AN ASSISTED LIVING PROGRAM SUBJECT TO THIS SECTION THAT
2 MEETS THE REQUIREMENTS OF ARTICLE 70B OF THE CODE WITH REGARD TO
3 ASSISTED LIVING IS NOT REQUIRED TO EXECUTE A SEPARATE ASSISTED LIVING
4 RESIDENT AGREEMENT THAT IS IN ADDITION TO THE CONTINUING CARE
5 AGREEMENT.

6 (2) FOR PURPOSES OF PARAGRAPH (1) OF THIS SUBSECTION, IF A
7 SEPARATE ASSISTED LIVING RESIDENT AGREEMENT IS NOT UTILIZED, REFERENCES
8 TO A RESIDENT AGREEMENT IN ANY REGULATIONS ADOPTED UNDER THIS SUBTITLE
9 SHALL MEAN THE CONTINUING CARE AGREEMENT.

10 (D) A CONTINUING CARE AGREEMENT THAT ~~INCLUDES AN ASSISTED LIVING~~
11 ~~PROGRAM SUBJECT TO THIS SECTION~~ CONTAINS A PROVISION TO PROVIDE ASSISTED
12 LIVING PROGRAM SERVICES AND DOES NOT REQUIRE A SUBSCRIBER TO EXECUTE A
13 SEPARATE ASSISTED LIVING AGREEMENT TO RECEIVE THOSE SERVICES IS NOT
14 REQUIRED TO CONTAIN GENERAL OR SPECIFIC CONTRACT PROVISIONS, EXCEPT AS
15 REQUIRED UNDER ARTICLE 70B OF THE CODE, THAT APPLY TO ASSISTED LIVING
16 PROGRAMS THAT ARE NOT SUBJECT TO THIS SECTION.

17 (E) (1) IN ADDITION TO SUBSECTION (C) OF THIS SECTION, AN ASSISTED
18 LIVING PROGRAM SUBJECT TO THIS SECTION IS NOT REQUIRED TO PROVIDE A
19 DISCLOSURE STATEMENT RELATING TO ITS ASSISTED LIVING PROGRAM SEPARATE
20 FROM ANY DISCLOSURE STATEMENT REQUIRED BY ARTICLE 70B OF THE CODE FOR
21 CONTINUING CARE.

22 (2) ANY DISCLOSURE STATEMENT REQUIRED TO BE PROVIDED TO A
23 RESIDENT UNDER ARTICLE 70B OF THE CODE SHALL INCLUDE INFORMATION THAT
24 IS REQUIRED TO BE DISCLOSED BY AN ASSISTED LIVING PROGRAM IN ACCORDANCE
25 WITH THIS SUBTITLE.

26 (F) A TRANSFER OF A RESIDENT FROM AN ASSISTED LIVING PROGRAM
27 SUBJECT TO THIS SECTION TO ANOTHER ASSISTED LIVING OR CONTINUING CARE
28 ARRANGEMENT GOVERNED BY THE SAME CONTINUING CARE AGREEMENT MAY NOT
29 BE CONSIDERED A RELOCATION OR DISCHARGE FROM THE ASSISTED LIVING
30 PROGRAM FOR PURPOSES OF TRIGGERING ANY REGULATORY REQUIREMENTS
31 ADOPTED UNDER THIS SUBTITLE FOR MATTERS RELATING TO NOTICE, FINANCIAL
32 ACCOUNTING, OR REFUNDS.

33 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take
34 effect July 1, 1999.

