

SENATE BILL 145

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1999 Regular Session
(91r0602)

ENROLLED BILL
-- Finance/Environmental Matters --

Introduced by **Senators Kelley, Kasemeyer, Exum, Roesser, Teitelbaum, Bromwell, Hooper, and Dorman**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

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;

1 specifying that certain continuing care agreements are not required to contain
2 certain contract provisions that are applicable to certain assisted living
3 programs under certain circumstances; specifying that certain resident
4 transfers from certain assisted living programs may not be considered a
5 relocation or discharge from the assisted living program for the purpose of
6 triggering certain regulatory requirements; providing for the application of this
7 Act; defining certain terms; and generally relating to specifying certain
8 requirements for assisted living programs that provide assisted living program
9 services as part of a continuum of care.

10 BY renumbering

11 Article 70B - Department of Aging
12 Section 7(b) through (p), respectively
13 to be Section 7(c) through (q), respectively
14 Annotated Code of Maryland
15 (1998 Replacement Volume)

16 BY adding to

17 Article 70B - Department of Aging
18 Section 7(b), 11C(f), and 13(c) and (d)
19 Annotated Code of Maryland
20 (1998 Replacement Volume)

21 BY repealing and reenacting, without amendments,

22 Article 70B - Department of Aging
23 Section 11C(a) and (b)
24 Annotated Code of Maryland
25 (1998 Replacement Volume)

26 BY repealing and reenacting, with amendments,

27 Article 70B - Department of Aging
28 Section 23
29 Annotated Code of Maryland
30 (1998 Replacement Volume)

31 BY adding to

32 Article - Health - General
33 Section 19-1806
34 Annotated Code of Maryland
35 (1996 Replacement Volume and 1998 Supplement)

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

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

3 Article 70B - Department of Aging

4 7.

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

7 11C.

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

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

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

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

21 (F) (1) IN ADDITION TO ANY OTHER REQUIREMENTS OF THIS SECTION, IF A
22 PROVIDER OFFERS ASSISTED LIVING PROGRAM SERVICES AS PART OF A CONTINUUM
23 OF CARE IN ACCORDANCE WITH A CONTINUING CARE PROVIDER'S CONTINUING
24 CARE AGREEMENT INCLUDES A PROVISION TO PROVIDE ASSISTED LIVING PROGRAM
25 SERVICES AND THE PROVIDER DOES NOT EXECUTE A SEPARATE ASSISTED LIVING
26 AGREEMENT, THE DISCLOSURE STATEMENT SHALL CONTAIN WITH REGARD TO THE
27 ASSISTED LIVING PROGRAM:

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

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

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

36 (IV) NOTICE OF:

1 1. THE AVAILABILITY OF LOCKS FOR STORAGE;

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

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

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

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

11 1. ARRANGING FOR OR OVERSEEING MEDICAL CARE;

12 2. MONITORING THE HEALTH STATUS OF THE SUBSCRIBER;

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

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

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

19 (VII) NOTICE OF ANY CHANGES TO THE CONTINUING CARE
20 AGREEMENT WITH REGARD TO THE PROVISIONS OF § 13(D) OF THIS SUBTITLE
21 MATERIAL CHANGES IN THE ASSISTED LIVING PROGRAM.

22 (2) THE PROVIDER SHALL:

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

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

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

32 13.

33 (C) THE PROVIDER SHALL MAINTAIN THE CONTINUING CARE AGREEMENT ON
34 SITE AND MAKE IT AVAILABLE FOR INSPECTION BY THE DEPARTMENT OF HEALTH

1 AND MENTAL HYGIENE UNDER TITLE 19, SUBTITLE 18, OF THE HEALTH - GENERAL
2 ARTICLE.

3 (D) IN ADDITION TO ANY OTHER REQUIREMENTS OF THIS SECTION, IF A
4 PROVIDER OFFERS ASSISTED LIVING PROGRAM SERVICES AS PART OF A CONTINUUM
5 OF CARE IN ACCORDANCE WITH A CONTINUING CARE AGREEMENT, EACH
6 PROVIDER'S CONTINUING CARE AGREEMENT INCLUDES A PROVISION TO PROVIDE
7 ASSISTED LIVING PROGRAM SERVICES AND THE PROVIDER DOES NOT EXECUTE A
8 SEPARATE ASSISTED LIVING AGREEMENT, EACH CONTINUING CARE AGREEMENT
9 EXECUTED BETWEEN A SUBSCRIBER AND A PROVIDER SHALL INCLUDE WITH
10 REGARD TO THE ASSISTED LIVING PROGRAM:

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

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

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

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

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

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

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

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

35 1. SERVICE PACKAGES;

36 2. FEE FOR SERVICE RATES; AND

37 3. ANY OTHER NONSERVICE-RELATED CHARGES;

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

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

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

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

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

16 23.

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

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

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

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

Article - Health - General

19-1806.

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

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

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

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

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

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

(D) A CONTINUING CARE AGREEMENT THAT ~~INCLUDES AN ASSISTED LIVING PROGRAM SUBJECT TO THIS SECTION~~ 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 IS NOT REQUIRED TO CONTAIN GENERAL OR SPECIFIC CONTRACT PROVISIONS, EXCEPT AS REQUIRED UNDER ARTICLE 70B OF THE CODE, THAT APPLY TO ASSISTED LIVING PROGRAMS THAT ARE NOT SUBJECT TO THIS SECTION.

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

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

1 (F) A TRANSFER OF A RESIDENT FROM AN ASSISTED LIVING PROGRAM
2 SUBJECT TO THIS SECTION TO ANOTHER ASSISTED LIVING OR CONTINUING CARE
3 ARRANGEMENT GOVERNED BY THE SAME CONTINUING CARE AGREEMENT MAY NOT
4 BE CONSIDERED A RELOCATION OR DISCHARGE FROM THE ASSISTED LIVING
5 PROGRAM FOR PURPOSES OF TRIGGERING ANY REGULATORY REQUIREMENTS
6 ADOPTED UNDER THIS SUBTITLE FOR MATTERS RELATING TO NOTICE, FINANCIAL
7 ACCOUNTING, OR REFUNDS.

8 SECTION ~~2~~ 3 AND BE IT FURTHER ENACTED, That this Act shall take
9 effect June 1, 1999.