

SENATE BILL 145

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1999 Regular Session  
9lr0602  
CF 9lr0762

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By: **Senators Kelley, Kasemeyer, Exum, Roesser, Teitelbaum, Bromwell,  
Hooper, and Dorman**

Introduced and read first time: January 26, 1999

Assigned to: Finance

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 5, 1999

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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

1 Article 70B - Department of Aging  
 2 Section 7(b) through (p), respectively  
 3 to be Section 7(c) through (q), respectively  
 4 Annotated Code of Maryland  
 5 (1998 Replacement Volume)

6 BY adding to  
 7 Article 70B - Department of Aging  
 8 Section 7(b), 11C(f), and 13(c) and (d)  
 9 Annotated Code of Maryland  
 10 (1998 Replacement Volume)

11 BY repealing and reenacting, without amendments,  
 12 Article 70B - Department of Aging  
 13 Section 11C(a) and (b)  
 14 Annotated Code of Maryland  
 15 (1998 Replacement Volume)

16 BY repealing and reenacting, with amendments,  
 17 Article 70B - Department of Aging  
 18 Section 23  
 19 Annotated Code of Maryland  
 20 (1998 Replacement Volume)

21 BY adding to  
 22 Article - Health - General  
 23 Section 19-1806  
 24 Annotated Code of Maryland  
 25 (1996 Replacement Volume and 1998 Supplement)

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

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

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

33 7.

34 (B) "ASSISTED LIVING PROGRAM" HAS THE MEANING STATED IN § 19-1801 OF  
 35 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 OFFERS ASSISTED LIVING PROGRAM SERVICES AS PART OF A CONTINUUM  
 17 OF CARE IN ACCORDANCE WITH A CONTINUING CARE AGREEMENT, THE  
 18 DISCLOSURE STATEMENT SHALL CONTAIN WITH REGARD TO THE ASSISTED LIVING  
 19 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 DURABLE  
8 MEDICAL EQUIPMENT;

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

11                   (VII)   NOTICE OF ANY CHANGES TO THE CONTINUING CARE  
12 AGREEMENT WITH REGARD TO THE PROVISIONS OF § 13(D) OF THIS SUBTITLE.

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 OFFERS ASSISTED LIVING PROGRAM SERVICES AS PART OF A CONTINUUM  
30 OF CARE IN ACCORDANCE WITH A CONTINUING CARE AGREEMENT, EACH  
31 AGREEMENT EXECUTED BETWEEN A SUBSCRIBER AND A PROVIDER SHALL INCLUDE  
32 WITH REGARD TO THE ASSISTED LIVING PROGRAM;

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

35                   (2)    AS PART OF THE PROCEDURES TO BE FOLLOWED UNDER  
36 SUBSECTION (A)(4) OF THIS SECTION, IF THE SUBSCRIBER IS TRANSFERRED TO AN

1 ASSISTED LIVING PROGRAM, THE PROCEDURES TO BE FOLLOWED BY THE PROVIDER  
2 FOR NOTIFYING THE SUBSCRIBER OF THE LEVEL OF CARE NEEDED BY THE  
3 SUBSCRIBER;

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

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

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

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

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

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

21 1. SERVICE PACKAGES;

22 2. FEE FOR SERVICE RATES; AND

23 3. ANY OTHER NONSERVICE-RELATED CHARGES;

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

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

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

35 (V) A PROVISION FOR AT LEAST 45 DAYS' NOTICE OF ANY RATE  
36 INCREASE, EXCEPT IF NECESSITATED BY A CHANGE IN THE SUBSCRIBER'S MEDICAL  
37 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

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

(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.

1 (2) FOR PURPOSES OF PARAGRAPH (1) OF THIS SUBSECTION,  
2 REFERENCES TO A RESIDENT AGREEMENT IN ANY REGULATIONS ADOPTED UNDER  
3 THIS SUBTITLE SHALL MEAN THE CONTINUING CARE AGREEMENT.

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

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

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

18 (F) A TRANSFER OF A RESIDENT FROM AN ASSISTED LIVING PROGRAM  
19 SUBJECT TO THIS SECTION TO ANOTHER ASSISTED LIVING OR CONTINUING CARE  
20 ARRANGEMENT GOVERNED BY THE SAME CONTINUING CARE AGREEMENT MAY NOT  
21 BE CONSIDERED A RELOCATION OR DISCHARGE FROM THE ASSISTED LIVING  
22 PROGRAM FOR PURPOSES OF TRIGGERING ANY REGULATORY REQUIREMENTS  
23 ADOPTED UNDER THIS SUBTITLE FOR MATTERS RELATING TO NOTICE, FINANCIAL  
24 ACCOUNTING, OR REFUNDS.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
26 June 1, 1999.