

SENATE BILL 721

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1999 Regular Session
9lr2321

By: **Senators Van Hollen and Hollinger**
Introduced and read first time: February 22, 1999
Assigned to: Rules
Re-referred to: Finance, February 25, 1999

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 26, 1999

CHAPTER _____

1 AN ACT concerning

2 **Department of Health and Mental Hygiene - Assisted Living Programs -**
3 **Report on Level of Care 3 Plus Waivers**

4 FOR the purpose of requiring the Department of Health and Mental Hygiene to
5 submit a certain annual report to the Governor and to the General Assembly on
6 or before a certain date ~~to the Chairman of the Senate Economic and~~
7 ~~Environmental Affairs Committee, the Chairman of the House Environmental~~
8 ~~Matters Committee, and the Cochairs of the Joint Committee on Administrative,~~
9 ~~Executive, and Legislative Review;~~ specifying the content of the report as it
10 relates to certain resident-specific waiver authority of the Department ~~under~~
11 ~~the State~~ for assisted living programs; providing for the termination of this Act;
12 and generally relating to ~~the State~~ assisted living programs.

13 BY repealing and reenacting, without amendments,
14 Article - Health - General
15 Section 1-101(a) and (c)
16 Annotated Code of Maryland
17 (1994 Replacement Volume and 1998 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article - Health - General
20 Section 19-1805
21 Annotated Code of Maryland
22 (1996 Replacement Volume and 1998 Supplement)

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

3 **Article - Health - General**

4 1-101.

5 (a) In this article the following words have the meanings indicated.

6 (c) "Department" means the Department of Health and Mental Hygiene.

7 19-1805.

8 (a) The Department shall:

9 (1) Define different levels of assisted living according to the level of care
10 provided;

11 (2) Require all assisted living programs to be licensed to operate
12 according to the level of the program;

13 (3) Develop a waiver process for authorizing an assisted living program
14 to continue to care for an individual whose medical or functional condition has
15 changed since admission to the program to an extent that the level of care required by
16 the individual exceeds the level of care for which the program is licensed;

17 (4) Promote affordable and accessible assisted living programs
18 throughout the State;

19 (5) Establish and enforce quality standards for assisted living programs;

20 (6) Require periodic inspections of assisted living program facilities;

21 (7) Establish requirements for the qualifications or training or both of
22 assisted living program employees;

23 (8) Establish a "resident bill of rights" for residents of assisted living
24 program facilities; and

25 (9) Define which, if any, assisted living programs may be exempt from
26 the requirements of § 19-311 of this title.

27 (B) (1) IN THIS SUBSECTION, "LEVEL OF CARE 3 PLUS WAIVER" MEANS A
28 RESIDENT-SPECIFIC WAIVER GRANTED BY THE DEPARTMENT UNDER COMAR
29 10.07.14.10 FOR AN INDIVIDUAL WHO RESIDES IN AN ASSISTED LIVING FACILITY
30 LICENSED BY THE DEPARTMENT AND WHO IS WITHIN ONE OR MORE OF THE
31 CATEGORIES SPECIFIED IN COMAR 10.07.14.10(J).

32 (2) ON OR BEFORE DECEMBER 15 OF EACH YEAR, THE DEPARTMENT
33 SHALL SUBMIT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE
34 GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY, A REPORT CONCERNING ITS

1 EXPERIENCE WITH LEVEL OF CARE 3 PLUS WAIVERS FOR THE PRECEDING 12-MONTH
2 PERIOD THAT ENDS ON NOVEMBER 30.

3 ~~(3) THE DEPARTMENT SHALL SUBMIT THE REPORT TO:~~

4 ~~(I) THE CHAIRMAN OF THE SENATE ECONOMIC AND~~
5 ~~ENVIRONMENTAL AFFAIRS COMMITTEE;~~

6 ~~(II) THE CHAIRMAN OF THE HOUSE ENVIRONMENTAL MATTERS~~
7 ~~COMMITTEE;~~

8 ~~(III) THE CHAIRMAN OF THE SENATE FINANCE COMMITTEE;~~

9 ~~(IV) THE CHAIRMAN OF THE HOUSE ECONOMIC MATTERS~~
10 ~~COMMITTEE; AND~~

11 ~~(V) THE COCHAIRS OF THE JOINT COMMITTEE ON~~
12 ~~ADMINISTRATIVE, EXECUTIVE, AND LEGISLATIVE REVIEW.~~

13 ~~(4)~~ (3) FOR EACH AND ALL ASSISTED LIVING FACILITIES, THE REPORT
14 SHALL INCLUDE:

15 (I) THE TOTAL NUMBER OF LEVEL OF CARE 3 PLUS WAIVERS
16 REQUESTED FROM AND TOTAL GRANTED BY THE DEPARTMENT;

17 (II) THE DURATION OF EACH LEVEL OF CARE 3 PLUS WAIVER AND
18 THE AVERAGE DURATION OF ALL LEVEL OF CARE 3 PLUS WAIVERS GRANTED BY THE
19 DEPARTMENT;

20 (III) THE TOTAL NUMBER OF RESIDENTS WHO WERE GRANTED A
21 LEVEL OF CARE 3 PLUS WAIVER BY THE DEPARTMENT AND REMAINED AT THEIR
22 ASSISTED LIVING FACILITY UNDER THAT WAIVER; AND

23 (IV) THE TOTAL NUMBER OF RESIDENTS WHO WERE GRANTED A
24 LEVEL OF CARE 3 PLUS WAIVER AND WERE SUBSEQUENTLY TRANSFERRED.

25 [(b)] (C) (1) The Department, in consultation with representatives of the
26 affected industry and advocates for residents of the facilities and with the approval of
27 the Department of Aging and the Department of Human Resources, shall adopt
28 regulations to implement this subtitle.

29 (2) The regulations adopted under paragraph (1) of this subsection shall:

30 (i) Provide for the licensing of assisted living programs and the
31 renewal of licenses;

32 (ii) Require the Secretary to charge fees in a manner that will
33 produce funds not to exceed the actual direct and indirect costs to the Department for
34 inspecting assisted living program facilities and maintaining the licensure program
35 for assisted living programs under this subtitle;

1 (iii) Require the Department, during a survey or other inspection of
2 an assisted living program, to review the number of waivers granted to the program
3 under subsection (a)(3) of this section and determine whether a change in the
4 program's licensure status is warranted; and

5 (iv) Include requirements for the management of resident property
6 entrusted to the assisted living program.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 1999. It shall remain effective for a period of 5 years and, at the end of
9 September 30, 2004, with no further action required by the General Assembly, this
10 Act shall be abrogated and of no further force and effect.