

BY: Environmental Matters Committee

AMENDMENTS TO HOUSE BILL NO. 634
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike "and Hammen" and substitute "Hammen, Hubbard, Frush, Morhaim, Mohorovic, Oaks, Sher, and Stern".

AMENDMENT NO. 2

On page 1, at the top of the bill insert "EMERGENCY BILL"; in line 5, after "terms;" insert "authorizing the Department to appoint an independent nursing home monitor under certain circumstances; establishing the burden of proof for the imposition of fines; requiring the Office of Administrative Hearings to render a decision within a certain time after a hearing; providing for a penalty discount under certain circumstances; establishing a Health Care Quality Account funded by certain penalties;"; and in line 7, after "care;" insert "making this Act an emergency measure;".

On page 1, in line 11, strike "and"; in the same line strike "through 19-1407" and substitute "and 19-1405"; in line 17, strike ", 19-1408, and" and substitute "and 19-1406 through"; and in line 22, after "Section" insert "19-1405 through".

AMENDMENT NO. 3

On page 2, in line 28, strike "RECURRENCE OF DEFICIENCIES AFTER" and substitute "OCCURRENCE OF ANY POTENTIAL FOR MORE THAN MINIMAL HARM OR GREATER DEFICIENCY ON"; in lines 15 and 31, in each instance, after "FOR" insert "MORE THAN MINIMAL"; and in line 33, strike "RESULTS IN MINIMAL DISCOMFORT TO A RESIDENT OR".

AMENDMENT NO. 4

On page 3, in line 14, after "MONITOR" insert "SUBJECT TO § 19-1405 OF THIS SUBTITLE"; and in line 30, strike "Such other factors as justice may require" and substitute "A NURSING HOME'S PRIOR HISTORY OF COMPLIANCE".

(Over)

AMENDMENT NO. 5

On page 5, in line 6, after "POTENTIAL" insert "FOR MORE THAN MINIMAL"; in lines 8 and 18, in each instance, strike "AND" and substitute "OR"; in lines 9 and 19, in each instance, after "DAY" insert "FOR AN ONGOING PATTERN OF DEFICIENCIES"; and in line 14, strike the second comma.

AMENDMENT NO. 6

On pages 6 and 7, strike in their entirety the lines beginning with line 2 on page 6 through line 15 on page 7, inclusive, and substitute:

"19-1405.

(A) WHEN THE DEPARTMENT DETERMINES THAT THERE IS A DEFICIENCY IN A NURSING HOME, THE DEPARTMENT MAY APPOINT AN INDEPENDENT MONITOR TO OVERSEE EFFORTS MADE BY THE NURSING HOME TO ACHIEVE COMPLIANCE WITH STATE AND FEDERAL REGULATIONS GOVERNING NURSING HOMES THAT PARTICIPATE IN THE MEDICARE AND MEDICAID PROGRAMS.

(B) THE APPOINTMENT OF A STATE MONITOR IS AN INTERMEDIATE SANCTION THAT MAY BE IN ADDITION TO OR IN LIEU OF OTHER SANCTIONS.

(C) THE STATE MONITOR'S DUTIES MAY INCLUDE:

(1) PERIODIC INSPECTIONS OF A NURSING HOME FOR THE PURPOSE OF ASSESSING THE NURSING HOME'S COMPLIANCE WITH STATE AND FEDERAL REGULATIONS; AND

(2) REPORTING TO THE DEPARTMENT AND THE NURSING HOME ITS FINDINGS.

(D) THE STATE MONITOR MAY NOT BE AN EMPLOYEE OF THE DEPARTMENT.

(E) A NURSING HOME SHALL BE RESPONSIBLE FOR THE COSTS

ASSOCIATED WITH THE APPOINTMENT OF A STATE MONITOR TO THE NURSING HOME.

19-1406.”.

AMENDMENT NO. 7

On page 8, in line 1, after “(C)” insert “(1)”; after line 3, insert:

“(2) THE SECRETARY SHALL HAVE THE BURDEN OF PROOF WITH RESPECT TO THE IMPOSITION OF CIVIL MONEY PENALTIES UNDER § 19-1404 OF THIS SUBTITLE.

(3) A DECISION SHALL BE RENDERED BY THE OFFICE OF ADMINISTRATIVE HEARINGS WITHIN 10 WORKING DAYS OF THE HEARING.

(D) A NURSING HOME IS ENTITLED TO A 40% REDUCTION IN THE AMOUNT OF THE CIVIL MONEY PENALTY IF IT WAIVES ITS RIGHT TO A HEARING WITHIN 30 DAYS OF THE DEPARTMENT’S ORDER.”;

and strike in their entirety lines 4 through 6, inclusive, and substitute:

“19-1407.

(A) (1) THERE IS A HEALTH CARE QUALITY ACCOUNT ESTABLISHED IN THE DEPARTMENT.

(2) THE ACCOUNT SHALL BE FUNDED BY CIVIL MONEY PENALTIES PAID BY NURSING HOMES AND OTHER PENALTIES THAT THE OFFICE OF HEALTH CARE QUALITY MAY ASSESS.

(3) THE DEPARTMENT SHALL PAY ALL PENALTIES COLLECTED UNDER THIS TITLE TO THE COMPTROLLER OF THE STATE.

(Over)

(4) THE COMPTROLLER SHALL DISTRIBUTE THE FUNDS COLLECTED UNDER THIS TITLE TO THE HEALTH CARE QUALITY ACCOUNT.

(5) THE FUND IS A CONTINUING, NONLAPSING FUND, NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(6) ANY UNSPENT PORTIONS OF THE FUND MAY NOT BE TRANSFERRED OR REVERTED TO THE GENERAL FUND OF THE STATE, BUT SHALL REMAIN IN THE FUND TO BE USED FOR THE PURPOSES SPECIFIED IN THIS SECTION.

(B) THE HEALTH CARE QUALITY ACCOUNT SHALL BE USED FOR TRAINING, GRANT AWARDS, DEMONSTRATION PROJECTS, OR OTHER PURPOSES DESIGNED TO IMPROVE THE QUALITY OF CARE.

(C) THE DEPARTMENT SHALL ADOPT REGULATIONS FOR THE DISTRIBUTION OF FUNDS FROM THE HEALTH CARE QUALITY ACCOUNT.”.

AMENDMENT NO. 8

On page 8, strike beginning with “shall” in line 28 down through “2000” in line 29, and substitute “is an emergency measure, is necessary for the immediate preservation of the public health and safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted”.