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By: **Senators Teitelbaum, Astle, Conway, Exum, Mitchell, DeGrange,  
Dorman, Dyson, and Hollinger**

Introduced and read first time: February 4, 2000

Assigned to: Finance

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A BILL ENTITLED

1 AN ACT concerning

2 **Nursing Home and Facility Inspections - Awards and Penalties**

3 FOR the purpose of establishing a monetary award to be presented to each nursing  
4 home and facility that is not cited for a deficiency during an initial 2-year  
5 inspection period by the Department of Health and Mental Hygiene; providing  
6 that award recipients are eligible for subsequent Compliance Achievement  
7 Awards on an annual basis for inspection compliance; providing that award  
8 recipients shall allocate a certain amount of the monetary award to encourage  
9 retention of certified nursing assistants; providing that award recipients may  
10 use a certain amount of the Compliance Achievement Award for other legitimate  
11 purposes; providing that award recipients may promote or publicize receipt of  
12 the award for a certain period; creating a Nursing Home and Facility Inspection  
13 Compliance Account; requiring nursing homes and facilities to pay the  
14 Department a monetary penalty for each reinspection that is conducted by the  
15 Department; requiring that the penalties assessed be deposited into the account;  
16 providing for the administration of the account; requiring the Department to use  
17 the moneys in the account to pay the monetary awards to deficiency-free  
18 nursing homes and facilities; requiring the Department to use general funds to  
19 pay the monetary awards if funds in the account are insufficient; making  
20 stylistic changes; and generally relating to nursing homes and facilities  
21 inspection compliance.

22 BY repealing and reenacting, with amendments,  
23 Article - Health - General  
24 Section 19-308(b), 19-1403(c), and 19-1406  
25 Annotated Code of Maryland  
26 (1996 Replacement Volume and 1999 Supplement)

27 BY adding to  
28 Article - Health - General  
29 Section 19-1402.1 and 19-1403(c)  
30 Annotated Code of Maryland  
31 (1996 Replacement Volume and 1999 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 19-308.

5 (b) (1) To assure compliance with the standards adopted under this subtitle,  
6 the Secretary shall have an inspection made:

7 (i) Of each related institution, each nonaccredited hospital, and  
8 each nonaccredited residential treatment center for which a license is sought; and

9 (ii) Periodically of each related institution, each nonaccredited  
10 hospital, and each nonaccredited residential treatment center for which a license has  
11 been issued.

12 (2) An accredited hospital and an accredited residential treatment center  
13 shall be subject to inspections under this subtitle by the Department for:

14 (i) A complaint investigation in accordance with § 19-309 of this  
15 part; or

16 (ii) Reviewing compliance with a written progress report or other  
17 documentation of corrective action in response to a focused survey submitted by the  
18 hospital or residential treatment center to the Joint Commission on Accreditation of  
19 Healthcare Organizations in response to a Type I finding that the hospital or  
20 residential treatment center is only in partial compliance with the patient care  
21 standards established by the Joint Commission on Accreditation of Healthcare  
22 Organizations.

23 (3) In addition to other provisions of this subsection, an accredited  
24 hospital shall be subject to inspections under this subtitle by the Department for  
25 reviewing compliance with licensure requirements for risk management, utilization  
26 review, and physician credentialing under § 19-319 of this subtitle.

27 (4) When conducting an inspection of an accredited hospital or  
28 accredited residential treatment center, the Department shall use the current  
29 applicable standards of the Joint Commission on Accreditation of Healthcare  
30 Organizations.

31 (5) At least 2 inspections a year of each related institution shall be  
32 unannounced.

33 (6) (I) IF THE DEPARTMENT DETERMINES THAT A RELATED  
34 INSTITUTION THAT IS CLASSIFIED AS A NURSING HOME UNDER § 19-307(B)(2) OF THIS  
35 SUBTITLE OR DEFINED AS A NURSING FACILITY UNDER § 19-1401(D) OF THIS TITLE  
36 HAS NOT BEEN CITED BY THE DEPARTMENT FOR A DEFICIENCY IN THE 2 PRECEDING  
37 INSPECTION YEARS, THE DEPARTMENT SHALL PRESENT THE COMPLIANCE  
38 ACHIEVEMENT AWARD AS PROVIDED UNDER THIS PARAGRAPH.

1 (II) AFTER A NURSING HOME OR FACILITY HAS RECEIVED A  
2 COMPLIANCE ACHIEVEMENT AWARD FOLLOWING THE INITIAL 2-YEAR INSPECTION  
3 PERIOD, THAT NURSING HOME OR FACILITY IS ELIGIBLE FOR SUBSEQUENT  
4 COMPLIANCE ACHIEVEMENT AWARDS ON AN ANNUAL BASIS IF THE NURSING HOME  
5 OR FACILITY HAS NOT BEEN CITED BY THE DEPARTMENT FOR A DEFICIENCY  
6 DURING THE PRECEDING INSPECTION YEAR.

7 (III) THE COMPLIANCE ACHIEVEMENT AWARD SHALL BE IN THE  
8 AMOUNT OF \$2,500.

9 (IV) 1. THE NURSING HOME OR FACILITY AWARD RECIPIENTS SHALL  
10 USE \$1,500 OF THE COMPLIANCE ACHIEVEMENT AWARD MONEY TO PROVIDE  
11 RETENTION INCENTIVES FOR CERTIFIED NURSING ASSISTANTS.

12 2. THE NURSING HOME OR FACILITY MAY USE \$1,000 OF THE  
13 COMPLIANCE ACHIEVEMENT AWARD MONEY FOR EMPLOYEE RETENTION OR FOR  
14 OTHER LEGITIMATE PURPOSES WITHIN THE DISCRETION OF THE NURSING HOME OR  
15 FACILITY.

16 (V) 1. THE COMPLIANCE ACHIEVEMENT AWARD SHALL BE PAID  
17 OUT OF THE NURSING HOME AND FACILITY INSPECTION COMPLIANCE ACCOUNT  
18 ESTABLISHED IN THE DEPARTMENT UNDER § 19-1402.1 OF THIS TITLE.

19 2. TO THE EXTENT THAT THE ACCOUNT DOES NOT CONTAIN  
20 SUFFICIENT FUNDS TO PROVIDE A MONETARY AWARD TO AN ELIGIBLE NURSING  
21 HOME OR FACILITY, THE DEPARTMENT SHALL PAY THE AWARD OUT OF THE  
22 DEPARTMENT'S GENERAL FUND BUDGET.

23 (VI) EACH COMPLIANCE ACHIEVEMENT AWARD RECEIVED BY A  
24 NURSING HOME OR FACILITY MAY BE PUBLICIZED OR PROMOTED BY THE NURSING  
25 HOME OR FACILITY FOR A PERIOD OF UP TO 1 YEAR. UPON EXPIRATION OF THE  
26 1-YEAR PERIOD, THE NURSING HOME OR FACILITY SHALL CEASE PUBLICATION OR  
27 PROMOTION OF THE MONETARY AWARD.

28 [(6)] (7) The part of a building that contains part of a hospital,  
29 residential treatment center, or related institution and any outbuilding are  
30 considered part of the facility and are subject to inspection to determine occupancy  
31 status for licensing purposes.

32 [(7)] (8) Subject to § 2-1246 of the State Government Article, during  
33 each regular session of the General Assembly, the Department shall submit to the  
34 General Assembly a report on the inspections.

35 [(8)] (9) (i) An employee of the Department may not inform a hospital,  
36 residential treatment center, or related institution of any proposed inspection activity,  
37 unless the chief of the employee's division directs the employee to do so.

38 (ii) An employee who violates any provision of this paragraph is  
39 guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or  
40 imprisonment not exceeding 1 year or both.

1 19-1402.1.

2 (A) (1) THERE IS A NURSING HOME AND FACILITY INSPECTION  
3 COMPLIANCE ACCOUNT ESTABLISHED IN THE DEPARTMENT.

4 (2) THE ACCOUNT CONSISTS OF THE PENALTIES PAID BY NURSING  
5 HOMES OR FACILITIES UNDER § 19-1403(C) OF THIS SUBTITLE.

6 (B) (1) THE DEPARTMENT SHALL PAY ALL REINSPECTION PENALTIES  
7 COLLECTED FOR THIS ACCOUNT TO THE COMPTROLLER OF THE STATE.

8 (2) THE COMPTROLLER SHALL DEPOSIT THE REINSPECTION PENALTIES  
9 TO THE NURSING HOME AND FACILITY INSPECTION COMPLIANCE ACCOUNT.

10 (C) (1) THE ACCOUNT IS A CONTINUING, NONLAPSING ACCOUNT NOT  
11 SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

12 (2) ANY UNSPENT MONEYS IN THE ACCOUNT MAY NOT BE  
13 TRANSFERRED OR MAY NOT REVERT TO THE GENERAL FUND OF THE STATE, BUT  
14 SHALL REMAIN IN THE ACCOUNT TO BE USED ONLY FOR THE PURPOSES SPECIFIED  
15 IN § 19-308(B)(6) OF THIS TITLE.

16 19-1403.

17 (C) (1) IF THE DEPARTMENT IDENTIFIES A DEFICIENCY THAT REQUIRES A  
18 REINSPECTION OF A NURSING HOME OR FACILITY UNDER SUBSECTION (B) OF THIS  
19 SECTION, THE NURSING HOME OR FACILITY SHALL PAY TO THE DEPARTMENT A \$750  
20 REINSPECTION PENALTY FOR EACH REINSPECTION.

21 (2) THE DEPARTMENT SHALL PAY THE REINSPECTION PENALTY INTO  
22 THE NURSING HOME AND FACILITY INSPECTION COMPLIANCE ACCOUNT  
23 ESTABLISHED UNDER § 19-1402.1 OF THIS SUBTITLE.

24 [(c)] (D) Following the reinspection the Department may:

25 (1) Extend the time frame in which the deficiency must be corrected; or

26 (2) Propose the imposition of a civil money penalty pursuant to §  
27 19-1404 OF THIS SUBTITLE.

28 19-1406.

29 (a) The [nursing facility] NURSING HOME OR FACILITY shall provide written  
30 notice to the Department when the deficiency or deficiencies identified in the notice  
31 issued pursuant to § 19-1404 are substantially corrected.

32 (b) The calculation of the amount of the civil money penalty will stop as of the  
33 date the notice in subsection (a) of this section is received by the Department.

1 (c) (1) The Department shall schedule and conduct a reinspection of the  
2 [nursing facility] NURSING HOME OR FACILITY within 24 hours of its receipt of the  
3 notice pursuant to subsection (a) of this section.

4 (2) FOR EACH REINSPECTION OF ITS PREMISES, THE NURSING HOME OR  
5 FACILITY SHALL PAY TO THE DEPARTMENT THE REINSPECTION PENALTY REQUIRED  
6 UNDER § 19-1403(C) OF THIS SUBTITLE.

7 (d) If, following the reinspection, the Department determines that the  
8 deficiency or deficiencies have not been substantially corrected, the [facility's]  
9 NURSING HOME'S OR FACILITY'S notice under subsection (a) of this section shall be  
10 invalid and the civil money penalty imposed under § 19-1405(a) shall remain in  
11 effect.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
13 October 1, 2000.