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

Introduced and read first time: February 4, 2000

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 17, 2000

CHAPTER _____

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~~ use the monetary award to
9 ~~encourage retention of certified nursing assistants; providing that award~~
10 ~~recipients may use a certain amount of the Compliance Achievement Award for~~
11 ~~other legitimate purposes~~ enhance nursing home staff salaries; providing that
12 award recipients may promote or publicize receipt of the award for a certain
13 period; creating a Nursing Home and Facility Inspection Compliance Account;
14 requiring nursing homes and facilities to pay the Department a monetary
15 penalty for each reinspection that is conducted by the Department; requiring
16 that the penalties assessed be deposited into the account; providing for the
17 administration of the account; requiring the Department to use the moneys in
18 the account to pay the monetary awards to deficiency-free nursing homes and
19 facilities; requiring the Department to use general funds to pay the monetary
20 awards if funds in the account are insufficient; making stylistic changes; and
21 generally relating to nursing homes and facilities 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

1 (1996 Replacement Volume and 1999 Supplement)

2 BY adding to

3 Article - Health - General

4 Section 19-1402.1 and 19-1403(c)

5 Annotated Code of Maryland

6 (1996 Replacement Volume and 1999 Supplement)

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

9 **Article - Health - General**

10 19-308.

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

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

15 (ii) Periodically of each related institution, each nonaccredited
16 hospital, and each nonaccredited residential treatment center for which a license has
17 been issued.

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

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

22 (ii) Reviewing compliance with a written progress report or other
23 documentation of corrective action in response to a focused survey submitted by the
24 hospital or residential treatment center to the Joint Commission on Accreditation of
25 Healthcare Organizations in response to a Type I finding that the hospital or
26 residential treatment center is only in partial compliance with the patient care
27 standards established by the Joint Commission on Accreditation of Healthcare
28 Organizations.

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

33 (4) When conducting an inspection of an accredited hospital or
34 accredited residential treatment center, the Department shall use the current
35 applicable standards of the Joint Commission on Accreditation of Healthcare
36 Organizations.

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

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

9 (II) AFTER A NURSING HOME OR FACILITY HAS RECEIVED A
10 COMPLIANCE ACHIEVEMENT AWARD FOLLOWING THE INITIAL 2-YEAR INSPECTION
11 PERIOD, THAT NURSING HOME OR FACILITY IS ELIGIBLE FOR SUBSEQUENT
12 COMPLIANCE ACHIEVEMENT AWARDS ON AN ANNUAL BASIS IF THE NURSING HOME
13 OR FACILITY HAS NOT BEEN CITED BY THE DEPARTMENT FOR A DEFICIENCY
14 DURING THE PRECEDING INSPECTION YEAR.

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

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

20 ~~2. THE NURSING HOME OR FACILITY MAY USE \$1,000 OF THE~~
21 ~~COMPLIANCE ACHIEVEMENT AWARD MONEY FOR EMPLOYEE RETENTION OR FOR~~
22 ~~OTHER LEGITIMATE PURPOSES WITHIN THE DISCRETION OF THE NURSING HOME OR~~
23 ~~FACILITY ENHANCE NURSING HOME STAFF SALARIES.~~

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

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

31 (VI) 1. EACH COMPLIANCE ACHIEVEMENT AWARD RECEIVED BY
32 A NURSING HOME OR FACILITY MAY BE PUBLICIZED OR PROMOTED BY THE NURSING
33 HOME OR FACILITY FOR A PERIOD OF UP TO 1 YEAR.

34 2. UPON EXPIRATION OF THE 1-YEAR PERIOD, THE NURSING HOME OR
35 FACILITY SHALL CEASE PUBLICATION OR PROMOTION OF THE MONETARY AWARD.

36 [(6)] (7) The part of a building that contains part of a hospital,
37 residential treatment center, or related institution and any outbuilding are
38 considered part of the facility and are subject to inspection to determine occupancy
39 status for licensing purposes.

1 [(7)] (8) Subject to § 2-1246 of the State Government Article, during
2 each regular session of the General Assembly, the Department shall submit to the
3 General Assembly a report on the inspections.

4 [(8)] (9) (i) An employee of the Department may not inform a hospital,
5 residential treatment center, or related institution of any proposed inspection activity,
6 unless the chief of the employee's division directs the employee to do so.

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

10 19-1402.1.

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

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

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

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

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

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

25 19-1403.

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

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

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

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

35 (2) Propose the imposition of a civil money penalty pursuant to §
36 19-1404 OF THIS SUBTITLE.

1 19-1406.

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

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

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

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

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

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