

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE
Revised

House Bill 235

(Delegate Hammen)

Environmental Matters

Finance

Nursing Homes - Notice of Closure - Penalties

This bill specifies that a nursing home that fails to meet specified transfer and notice requirements is subject to a civil money penalty not exceeding the cost of reimbursing the Office of Health Care Quality (OHCQ) for expenses incurred by the office.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues due to the bill's penalty provisions. No effect on expenditures.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: A nursing home that fails to provide a 30-day notice to residents and their families or guardians prior to the closure of the nursing home is subject to a civil money penalty not exceeding expenses incurred by the OHCQ in ensuring a smooth and orderly transition of residents. If a civil money penalty is imposed, a nursing home may appeal the penalty through the Department of Health and Mental Hygiene's (DHMH) appeals process.

Current Law: Neither a nursing home nor an individual responsible for the oversight of a nursing home is subject to civil penalties for failure to give proper notice of the closure of a nursing home. A nursing home is subject to civil monetary penalties if cited for any

condition (“deficiency”) existing in the nursing home, or action or inaction by the nursing home staff, that results in potential for more than minimal harm, actual harm, or serious and immediate threat to one or more residents. These civil monetary penalties range from \$1,000 to \$10,000 per day for ongoing patterns of deficiencies and \$5,000 to \$10,000 per instance.

A nursing home may appeal a civil money penalty imposed by DHMH. The nursing home must deposit the amount of the penalty in an interest bearing escrow account pending DHMH’s final decision. DHMH has the burden of proof with respect to the imposition of civil money penalties. 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 DHMH’s order.

State Fiscal Effect: General fund revenues for OHCQ could increase minimally beginning in fiscal 2003. OHCQ, located within DHMH, is responsible for licensing and inspecting nursing homes. OHCQ anticipates that one or two nursing homes annually will be subject to fines and restitution pursuant to this bill. The Department of Legislative Services advises that it is difficult to reliably estimate the number of nursing homes that may be subject to this bill because of a possible deterrent effect. It is also uncertain as to whether OHCQ would be able to collect fines once they have been assessed, such as in cases of bankruptcy. Expenditures would not be affected.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Health and Mental Hygiene (Office of Health Care Quality), Department of Legislative Services

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