

SENATE BILL 343

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2004 Regular Session  
4r1427  
CF 4r2393

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By: **Senators Pinsky, Astle, Britt, Dyson, Grosfeld, Hughes, Stone, and Teitelbaum**

Introduced and read first time: February 3, 2004  
Assigned to: Finance

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Committee Report: Favorable with amendments  
Senate action: Adopted  
Read second time: March 5, 2004

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Health Facilities - Nursing Homes - Family Council**

3 FOR the purpose of providing for the composition of a family council for a nursing  
4 home; ~~prohibiting a family council from being created or led by certain persons;~~  
5 authorizing a family council to be created or led by certain persons under certain  
6 circumstances; requiring a nursing home to give certain persons certain  
7 information about a family council in the nursing home; requiring the nursing  
8 home to respond in writing to certain communications from the family council  
9 within a certain time frame; requiring a nursing home to create and to maintain  
10 certain correspondence files; providing for the contents of certain files; requiring  
11 records in regulatory files to be unedited; requiring records in public files to  
12 delete certain information; providing the times for the review of public files by  
13 certain persons; requiring a nursing home to promptly comply with a request by  
14 a licensing authority to review certain files; requiring the Secretary of Aging to  
15 adopt certain regulations; defining a certain term; and generally relating to a  
16 family council in nursing homes.

17 BY renumbering  
18 Article - Health - General  
19 Section 19-1415  
20 to be Section 19-1416  
21 Annotated Code of Maryland  
22 (2000 Replacement Volume and 2003 Supplement)

23 BY adding to  
24 Article - Health - General

1 Section 19-1415  
 2 Annotated Code of Maryland  
 3 (2000 Replacement Volume and 2003 Supplement)

4 BY repealing and reenacting, without amendments,

5 Article 70B - Department of Aging  
 6 Section 5(c) and (d)(1)  
 7 Annotated Code of Maryland  
 8 (2003 Replacement Volume)

9 BY repealing and reenacting, with amendments,

10 Article 70B - Department of Aging  
 11 Section 5(d)(2)  
 12 Annotated Code of Maryland  
 13 (2003 Replacement Volume)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 15 MARYLAND, That Section(s) 19-1415 of Article - Health - General of the Annotated  
 16 Code of Maryland be renumbered to be Section(s) 19-1416.

17 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
 18 read as follows:

19 **Article - Health - General**

20 19-1415.

21 (A) IN THIS SECTION, "FAMILY COUNCIL" MEANS A GROUP OF INDIVIDUALS  
 22 WHO WORK TOGETHER TO PROTECT THE RIGHTS OF AND IMPROVE THE QUALITY OF  
 23 LIFE OF RESIDENTS OF A NURSING HOME.

24 (B) (1) A FAMILY COUNCIL FOR A NURSING HOME MAY CONSIST OF THE  
 25 FOLLOWING MEMBERS:

26 ~~(I) RESIDENTS OF A NURSING HOME;~~

27 ~~(II) MEMBERS OF A RESIDENT'S FAMILY; OR~~

28 (II) AN INDIVIDUAL APPOINTED BY THE RESIDENT, OR IF THE  
 29 RESIDENT IS INCAPABLE OF APPOINTING AN INDIVIDUAL, AN INDIVIDUAL  
 30 APPOINTED BY THE RESIDENT'S FAMILY.

31 ~~(III) FRIENDS OF A RESIDENT; OR~~

32 ~~(IV) REPRESENTATIVES OF TWO OR MORE RESIDENTS.~~

1           (2)    (I)    SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, A  
2 FAMILY COUNCIL MAY ~~NOT~~ BE CREATED ~~OR LED~~ BY THE OWNER, OPERATOR, OR  
3 STAFF OF A NURSING HOME.

4                   (II)    IN ORDER TO FACILITATE THE DEVELOPMENT OF A FAMILY  
5 COUNCIL, THE OWNER, OPERATOR, OR STAFF OF A NURSING HOME MAY LEAD THE  
6 FAMILY COUNCIL FOR NO LONGER THAN 6 MONTHS AT WHICH TIME THE FAMILY  
7 COUNCIL SHALL BE LED BY A MEMBER OF THE FAMILY COUNCIL.

8    (C)    A NURSING HOME SHALL GIVE EACH NEW OR PROSPECTIVE RESIDENT  
9 THE FOLLOWING WRITTEN INFORMATION ABOUT THE FAMILY COUNCIL:

10           (1)    THE NAME, ADDRESS, AND PHONE NUMBER OF A CURRENT MEMBER  
11 OF THE FAMILY COUNCIL;

12           (2)    A BRIEF DESCRIPTION OF THE PURPOSE AND FUNCTION OF THE  
13 FAMILY COUNCIL; ~~AND~~

14           (3)    INSTRUCTIONS ON HOW THE RESIDENT OR PROSPECTIVE RESIDENT  
15 MAY REVIEW THE PUBLIC FILES DESCRIBED IN SUBSECTION (E) OF THIS SECTION;  
16 AND

17           (4)    THE NAME, ADDRESS, AND PHONE NUMBER OF THE STATE OR LOCAL  
18 OMBUDSMAN.

19    (D)    A NURSING HOME SHALL RESPOND IN WRITING TO ANY WRITTEN  
20 GRIEVANCE OR OTHER WRITTEN COMMUNICATION FROM THE FAMILY COUNCIL  
21 WITHIN ~~40~~ 14 CALENDAR DAYS AFTER RECEIVING A COMMUNICATION.

22    (E)    (1)    A NURSING HOME SHALL CREATE AND MAINTAIN A PUBLIC  
23 CORRESPONDENCE FILE AND A REGULATORY CORRESPONDENCE FILE FOR  
24 COMMUNICATIONS WITH A FAMILY COUNCIL.

25           (2)    THE CORRESPONDENCE FILES SHALL INCLUDE A COPY OF EACH  
26 WRITTEN COMMUNICATION AND RESPONSE DESCRIBED IN SUBSECTION (D) OF THIS  
27 SECTION.

28           (3)    (I)    THE RECORDS IN THE REGULATORY FILE SHALL BE UNEDITED.

29                   (II)    THE RECORDS IN THE PUBLIC FILE SHALL DELETE ANY  
30 INFORMATION THAT IDENTIFIES AN INDIVIDUAL RESIDENT.

31           (4)    THE PUBLIC FILE MAY BE REVIEWED BY A RESIDENT, PROSPECTIVE  
32 RESIDENT, OR THE REPRESENTATIVE OF EITHER A RESIDENT OR PROSPECTIVE  
33 RESIDENT DURING NORMAL BUSINESS HOURS AND AT ANY OTHER TIME THE  
34 NURSING HOME AGREES TO MAKE THE PUBLIC FILE AVAILABLE.

35           (5)    THE NURSING HOME SHALL PROMPTLY COMPLY WITH A REQUEST  
36 BY A LICENSING AUTHORITY TO REVIEW THE RECORDS IN EITHER THE PUBLIC OR  
37 REGULATORY FILES.

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**Article 70B - Department of Aging**2 5.

3 (c) There is established in the Department a Maryland Long-Term Care  
4 Ombudsman Program. The Secretary shall designate a Maryland Long-Term Care  
5 Ombudsman.

6 (d) (1) The Secretary may delegate the Secretary's authority under  
7 subsection (a) of this section to the Maryland Long-Term Care Ombudsman and to  
8 the director of a local office on aging in accordance with a local long-term care  
9 ombudsman program established pursuant to regulations promulgated by the  
10 Secretary.

11 (2) The regulations shall provide for:

12 (i) Minimum training requirements for all program staff and  
13 volunteers;

14 (ii) Cooperation with the Departments of Health and Mental  
15 Hygiene and Human Resources;

16 (iii) Annual review of all ombudsman activities by the Department;

17 (iv) Complaint review, investigation, and resolution procedures  
18 including provisions which assure the confidentiality of complaints and the right of  
19 privacy of any complainant or resident of a related institution;

20 (v) Maintenance by the local ombudsman of a recordkeeping or  
21 information system which assures the confidentiality of records or files and the right  
22 of privacy of any complainant or resident of a related institution; [and]

23 (vi) Access, review, and copying of medical records to the extent  
24 authorized by § 4-305(b)(3) of the Health - General Article when the local  
25 ombudsman is the person in interest or as otherwise provided by law; AND

26 (VII) A PROCESS FOR ASSISTING INDIVIDUALS WITH ORGANIZING  
27 AND OPERATING A FAMILY COUNCIL IN A NURSING HOME.

28 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
29 October 1, 2004.

