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By: **Chairman, Health and Government Operations Committee (By  
Request - Departmental - Health and Mental Hygiene)**

Introduced and read first time: February 11, 2005

Assigned to: Health and Government Operations

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A BILL ENTITLED

1 AN ACT concerning

2 **Health - Hospitals, Related Institutions, and Housing Programs for**  
3 **Individuals in Need of Assistance**

4 FOR the purpose of altering the licensing requirements for certain assisted living and  
5 related programs; defining the term "housing programs" to mean certain related  
6 institutions including certain assisted living and related programs for certain  
7 individuals who need assistance with the activities of daily living; altering the  
8 duties of the Department of Health and Mental Hygiene in connection with  
9 certain housing programs; requiring the Department to require certain adult  
10 care homes to be certified; altering certain requirements for the adoption of  
11 regulations; altering the criteria to be used to charge fees to certain housing  
12 programs; authorizing certain regulations to include standards for advertising  
13 or soliciting by certain housing programs; authorizing the Department to impose  
14 certain sanctions and civil penalties under certain circumstances; providing for  
15 certain civil and criminal penalties relating to the operation of certain hospitals  
16 and related institutions, including certain housing programs; requiring certain  
17 housing programs that provide for individuals with certain disorders by means  
18 of a special care unit or program to make certain disclosures, provide certain  
19 descriptions of the special care unit or program, and obtain certain prior  
20 approval from the Department; prohibiting a housing program from advertising  
21 or making certain representations in a certain manner; prohibiting certain adult  
22 care homes from accepting a referral from a hospital; requiring the adoption of  
23 certain regulations; providing for the application of this Act; providing for a  
24 delayed effective date; and generally relating to certain hospitals, related  
25 institutions, and housing programs for individuals who need assistance with the  
26 activities of daily living.

27 BY repealing and reenacting, without amendments,  
28 Article - Health - General  
29 Section 1-101(a) and (c)  
30 Annotated Code of Maryland  
31 (2000 Replacement Volume and 2004 Supplement)

32 BY repealing and reenacting, with amendments,

1 Article - Health - General  
2 Section 19-358, 19-359, and 19-1801, 19-1802, 19-1804, and 19-1805  
3 Annotated Code of Maryland  
4 (2000 Replacement Volume and 2004 Supplement)

5 BY repealing

6 Article - Health - General  
7 Section 19-1803  
8 Annotated Code of Maryland  
9 (2000 Replacement Volume and 2004 Supplement)

10 BY adding to

11 Article - Health - General  
12 Section 19-1805.1, 19-1808, 19-1809, and 19-1810  
13 Annotated Code of Maryland  
14 (2000 Replacement Volume and 2004 Supplement)

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

17 **Article - Health - General**

18 1-101.

19 (a) In this article the following words have the meanings indicated.

20 (c) "Department" means the Department of Health and Mental Hygiene.

21 19-358.

22 (a) A person may not operate a hospital or related institution unless issued a  
23 registration permit or licensed by the Secretary.

24 (b) A hospital may not provide or hold itself out as providing comprehensive  
25 physical rehabilitation services, as defined in § 19-1201 of this title, or operate as a  
26 special rehabilitation hospital unless the hospital is classified as a special  
27 rehabilitation hospital by the Secretary.

28 (c) Unless a health care facility is classified as a special rehabilitation  
29 hospital by the Secretary, a health care facility may only offer those physical  
30 rehabilitation services which are appropriate and necessary to the care, treatment, or  
31 support of the acute, chronic disease, or long-term care patient.

32 (d) (1) A person who violates any provision of this section is guilty of a  
33 misdemeanor and on conviction is subject to IMPRISONMENT NOT EXCEEDING 5  
34 YEARS AND a fine not exceeding [\$1,000] \$10,000 for the first offense and not  
35 exceeding [\$10,000] \$20,000 for each subsequent conviction for a violation of the same

1 provision. Each day a violation is continued after the first conviction is a subsequent  
2 offense.

3 (2) The Secretary may impose a civil money penalty not to exceed  
4 \$10,000 for each offense under this section.

5 19-359.

6 (a) A person who operates a related institution in violation of the rules and  
7 regulations that the Secretary adopts for related institutions is guilty of a  
8 misdemeanor and on conviction is subject to a fine not exceeding [\$1,000] \$10,000.  
9 Each day a violation is continued after the first conviction is a separate offense.

10 (b) The Secretary may impose a civil money penalty not to exceed \$10,000 for  
11 each offense under this section.

12 (c) (1) If a civil money penalty is imposed under this section or under §  
13 19-358 of this subtitle, the Secretary shall issue an order which shall state the basis  
14 on which the order is made, the amount of the civil money penalty imposed, and the  
15 manner in which the amount of the civil money penalty was calculated.

16 (2) The operator of an unlicensed hospital or an unlicensed or  
17 unregistered related institution shall have the right to appeal from the order  
18 imposing the civil money penalty in accordance with Title 10, Subtitle 2 of the State  
19 Government Article (Administrative Procedure Act - Contested Cases).

20 19-1801.

21 (A) In this subtitle[:] THE FOLLOWING WORDS HAVE THE MEANINGS  
22 INDICATED.

23 (B) "ADULT CARE HOME" MEANS A HOUSING PROGRAM THAT IS CERTIFIED BY  
24 THE DEPARTMENT TO SERVE FOUR OR FEWER INDIVIDUALS.

25 (C) "ASSISTED LIVING PROGRAM" MEANS A HOUSING PROGRAM THAT IS  
26 LICENSED BY THE DEPARTMENT TO SERVE 10 OR MORE INDIVIDUALS.

27 [(1)] (D) ["Assisted living program" ] "HOUSING PROGRAM" means a  
28 residential or facility-based program that provides housing and supportive services,  
29 supervision, personalized assistance, health-related services, or a combination  
30 thereof that meets the needs of individuals who are unable to perform or who need  
31 assistance in performing the activities of daily living [or instrumental activities of  
32 daily living in a way that promotes optimum dignity and independence for the  
33 individuals].

34 (E) "RESIDENTIAL CARE HOME" MEANS A HOUSING PROGRAM THAT IS  
35 LICENSED TO SERVE FIVE TO NINE INDIVIDUALS.

36 (F) "SPECIAL CARE UNIT OR PROGRAM" MEANS A SECURED OR SEPARATE  
37 SPECIAL UNIT OR PROGRAM SPECIFICALLY DESIGNED FOR INDIVIDUALS WITH A

1 PROBABLE OR CONFIRMED DIAGNOSIS OF ALZHEIMER'S DISEASE, DEMENTIA, OR A  
2 RELATED DISORDER.

3 19-1802.

4 [(2) "Assisted living program" does not include] THIS SUBTITLE DOES  
5 NOT APPLY TO:

6 [(i)] (1) A nursing home, as defined under § 19-301 of this title;

7 [(ii)] (2) A State facility, as defined under § 10-101 of this article;

8 [(iii)] (3) A program licensed by the Department under Title 7 or  
9 Title 10 of this article;

10 [(iv)] (4) A hospice care program regulated by the Department  
11 under Subtitle 9 of this title;

12 [(v)] (5) Services provided by family members; or

13 [(vi)] (6) Services provided TO AN INDIVIDUAL IN THAT [in an]  
14 individual's own home.

15 [19-1802.] 19-1803.

16 The Department shall be the lead agency for supervising and monitoring a  
17 statewide interagency system for regulating the establishment and operation of  
18 [assisted living programs] HOUSING PROGRAMS.

19 [19-1803.]

20 (a) The Department shall encourage, but may not require, providers of  
21 assisted living program services to offer a continuum of care.

22 (b) Providers of assisted living program services may provide services at a  
23 variety of levels and in a variety of settings.]

24 19-1804.

25 The Department shall:

26 (1) Serve as the point of entry for persons desiring information on  
27 [assisted living programs] HOUSING PROGRAMS; AND

28 [(2) Provide the Department of Aging and other State agencies that  
29 routinely receive inquiries from the public about assisted living with information that  
30 will enable the agencies to respond to the inquiries accurately and effectively; and

31 (3)] (2) Delegate various aspects of its responsibilities under this  
32 subtitle to monitor and inspect [assisted living programs and facilities] A  
33 RESIDENTIAL CARE HOME OR AN ADULT CARE HOME to the Department of Aging and

1 the Department of Human Resources, in accordance with an interagency agreement,  
2 for the purpose of ensuring compliance with the regulations adopted by the  
3 Department under this subtitle.

4 19-1805.

5 (a) The Department shall:

6 (1) Define different CARE levels [of assisted living] THAT MAY BE  
7 PROVIDED IN HOUSING PROGRAMS [according to the level of care provided];

8 (2) Require all assisted living programs OR RESIDENTIAL CARE HOMES  
9 to be licensed PRIOR TO OPERATING [to operate according to the level of the  
10 program];

11 (3) [Develop a waiver process for authorizing an assisted living program  
12 to continue to care for an individual whose medical or functional condition has  
13 changed since admission to the program to an extent that the level of care required by  
14 the individual exceeds the level of care for which the program is licensed] REQUIRE  
15 ALL ADULT CARE HOMES TO BE CERTIFIED PRIOR TO OPERATING AND PROHIBIT THE  
16 CERTIFICATION OF ANY ADULT CARE HOME THAT IS SUBJECT TO AN OWNERSHIP OR  
17 BUSINESS INTEREST HELD BY A PERSON WHO ALSO HOLDS AN OWNERSHIP OR  
18 BUSINESS INTEREST IN ANOTHER HOUSING PROGRAM;

19 [(4) Promote affordable and accessible assisted living programs  
20 throughout the State;

21 (5)] (4) Establish and enforce quality standards for [assisted living  
22 programs] HOUSING PROGRAMS;

23 [(6)] (5) Require periodic inspections of assisted living program  
24 facilities, including at least an annual unannounced on-site inspection;

25 (6) REQUIRE PERIODIC UNANNOUNCED ON-SITE INSPECTION OF ADULT  
26 CARE HOMES;

27 (7) Establish requirements for the qualifications or training or both of  
28 assisted living program AND RESIDENTIAL CARE HOME employees;

29 (8) Establish a "resident bill of rights" for residents of assisted living  
30 [program facilities] PROGRAMS AND RESIDENTIAL CARE HOMES; [and]

31 (9) ALLOW A PERSON TO OBTAIN A RESIDENTIAL CARE HOME LICENSE  
32 FOR ANY HOUSING PROGRAM WITH FEWER THAN FIVE BEDS IF THE PERSON  
33 OTHERWISE MEETS THE QUALIFICATIONS FOR A RESIDENTIAL CARE HOME LICENSE;

34 (10) ALLOW A PERSON TO OBTAIN AN ASSISTED LIVING PROGRAM  
35 LICENSE FOR ANY HOUSING PROGRAM WITH FEWER THAN 10 BEDS IF THE PERSON  
36 OTHERWISE MEETS THE QUALIFICATIONS FOR AN ASSISTED LIVING PROGRAM  
37 LICENSE; AND

1                   [(9)]   (11)   Define which, if any, [assisted living] HOUSING programs may  
2 be exempt from the requirements of § 19-311 of this title.

3           (b)   (1)   (i)    The Secretary may accept all or part of a report of an approved  
4 accrediting organization as meeting the State licensing requirements for renewal of a  
5 license to operate [an assisted living facility program] A HOUSING PROGRAM.

6                               (ii)   The Secretary may not accept all or part of a report of an  
7 approved accrediting organization as meeting the State licensing requirements for an  
8 initial license to operate [an assisted living facility program] A HOUSING PROGRAM.

9           (2)   (i)    The [assisted living facility] HOUSING program shall submit  
10 the report of an accrediting organization to the Secretary within 30 days of the receipt  
11 of the report by the [assisted living facility] HOUSING program.

12                               (ii)   The report of an accrediting organization used by the  
13 Department as meeting the State licensing requirements for renewal of a license to  
14 operate [an assisted living facility] A HOUSING program shall be made available to  
15 the public on request.

16           (3)   The Secretary may inspect [an assisted living facility] A HOUSING  
17 program to:

18                               (i)    Investigate a complaint;

19                               (ii)   Follow up on a serious problem identified by an approved  
20 accrediting organization; or

21                               (iii)   Validate findings of an approved accrediting organization.

22           (c)   (1)   The Department, in consultation with representatives of the affected  
23 industry and advocates for residents of the facilities, [and with the approval of] the  
24 Department of Aging, and the Department of Human Resources, shall adopt  
25 regulations to implement this subtitle.

26           (2)   The regulations adopted under paragraph (1) of this subsection shall:

27                               (i)    Provide STANDARDS for the licensing, CERTIFICATION, AND  
28 DISCIPLINE of [assisted living] HOUSING programs and the renewal of licenses;

29                               (ii)   Require the Secretary to charge fees in a manner that will  
30 produce funds [not] to [exceed] MEET the actual direct and indirect costs to the  
31 Department for inspecting, LICENSING, CERTIFICATION, AND DISCIPLINING  
32 [assisted living program facilities and maintaining the licensure program for assisted  
33 living] HOUSING programs under this subtitle; AND

34                               [(iii)   Require the Department, during a survey or other inspection of  
35 an assisted living program, to review the number of waivers granted to the program  
36 under subsection (a)(3) of this section and determine whether a change in the  
37 program's licensure status is warranted; and

1 (iv)] (III) Require an assisted living program [facility] AND A  
2 RESIDENTIAL CARE HOME to post in a conspicuous place visible to actual and  
3 potential residents of the facility and other interested parties:

4 1. A. Its statement of deficiencies for the most recent  
5 survey;

6 B. Any subsequent complaint investigations conducted by  
7 federal, State, or local surveyors; and

8 C. Any plans of correction in effect with respect to the survey  
9 or complaint investigation; or

10 2. A notice of the location, within the facility, of the items  
11 listed in item 1 of this item.

12 (3) THE REGULATIONS ADOPTED UNDER THIS SUBTITLE MAY INCLUDE  
13 STANDARDS FOR ADVERTISING OR SOLICITING BY HOUSING PROGRAMS.

14 19-1805.1.

15 (A) AFTER PROVIDING THE HOUSING PROGRAM WITH THE OPPORTUNITY FOR  
16 A HEARING UNDER THE ADMINISTRATIVE PROCEDURE ACT, TITLE 10, SUBTITLE 2 OF  
17 THE STATE GOVERNMENT ARTICLE, THE DEPARTMENT MAY SUSPEND, REVOKE,  
18 IMPOSE RESTRICTIONS ON A LICENSE OR CERTIFICATE, OR ISSUE A CIVIL MONEY  
19 PENALTY NOT TO EXCEED \$10,000 IF AN APPLICANT, LICENSEE, OR CERTIFIED  
20 HOUSING PROGRAM FAILS TO COMPLY WITH THIS SUBTITLE OR REGULATIONS  
21 ADOPTED BY THE SECRETARY UNDER THIS SUBTITLE.

22 (B) IF THE DEPARTMENT DENIES AN APPLICATION FOR A LICENSE OR  
23 CERTIFICATE DUE TO THE APPLICANT'S FAILURE TO MEET THE STANDARDS FOR  
24 LICENSURE OR CERTIFICATION SET FORTH IN THIS SUBTITLE OR THE REGULATIONS  
25 ADOPTED BY THE SECRETARY, THE APPLICANT MAY APPEAL THE DECISION UNDER  
26 THE ADMINISTRATIVE PROCEDURE ACT, TITLE 10, SUBTITLE 2 OF THE STATE  
27 GOVERNMENT ARTICLE AND IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE  
28 SECRETARY.

29 19-1808.

30 (A) AN INDIVIDUAL MAY NOT OPERATE OR ENGAGE IN, ATTEMPT TO OPERATE  
31 OR ENGAGE IN, OR HOLD ONE'S SELF OUT AS OPERATING OR ENGAGING IN THE  
32 BUSINESS OF PROVIDING HOUSING AND OTHER SERVICES THAT WOULD REQUIRE A  
33 LICENSE OR CERTIFICATE AS A HOUSING PROGRAM UNDER THIS SUBTITLE UNLESS  
34 THE INDIVIDUAL IS LICENSED OR CERTIFIED UNDER THIS SUBTITLE.

35 (B) AN INDIVIDUAL WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY  
36 AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5 YEARS AND  
37 A FINE NOT EXCEEDING \$10,000 FOR THE FIRST OFFENSE AND NOT EXCEEDING  
38 \$20,000 FOR EACH SUBSEQUENT CONVICTION OF THE SAME PROVISION. EACH DAY A

1 VIOLATION IS CONTINUED AFTER THE FIRST CONVICTION IS A SUBSEQUENT  
2 OFFENSE.

3 19-1809.

4 (A) A HOUSING PROGRAM THAT PROVIDES CARE FOR OR OFFERS TO PROVIDE  
5 CARE FOR INDIVIDUALS WITH ALZHEIMER'S DISEASE, DEMENTIA, OR A RELATED  
6 DISORDER BY MEANS OF A SPECIAL CARE UNIT OR PROGRAM SHALL DISCLOSE IN  
7 WRITING TO THE CONSUMER HOW THE FORM OF CARE AND TREATMENT PROVIDED  
8 BY THE SPECIAL CARE UNIT OR PROGRAM IS SPECIFICALLY DESIGNED FOR THE  
9 SPECIALIZED CARE OF SUCH INDIVIDUALS.

10 (B) A HOUSING PROGRAM MAY NOT OPERATE A SPECIAL CARE UNIT WITHOUT  
11 FIRST OBTAINING THE APPROVAL OF THE DEPARTMENT.

12 (C) A HOUSING PROGRAM SHALL SUBMIT A DESCRIPTION OF THE SPECIAL  
13 CARE UNIT OR PROGRAM TO THE DEPARTMENT FOR APPROVAL WHICH SHALL  
14 INCLUDE:

15 (1) A STATEMENT OF PHILOSOPHY OR MISSION;

16 (2) STAFF TRAINING AND STAFF JOB TITLES;

17 (3) ADMISSION PROCEDURES INCLUDING SCREENING CRITERIA;

18 (4) ASSESSMENT AND CARE PLANNING PROTOCOL;

19 (5) STAFFING PATTERNS;

20 (6) A DESCRIPTION OF THE PHYSICAL ENVIRONMENT AND ANY UNIQUE  
21 DESIGN FEATURES APPROPRIATE TO SUPPORT THE FUNCTIONING OF COGNITIVELY  
22 IMPAIRED INDIVIDUALS;

23 (7) A DESCRIPTION OF ACTIVITIES INCLUDING FREQUENCY AND TYPE;

24 (8) CHARGES TO RESIDENTS FOR SERVICES PROVIDED BY THE SPECIAL  
25 CARE UNIT OR PROGRAM;

26 (9) DISCHARGE PROCEDURES;

27 (10) ANY SERVICES, TRAINING, OR OTHER PROCEDURES THAT ARE OVER  
28 AND ABOVE THOSE THAT ARE PROVIDED IN THE EXISTING HOUSING PROGRAM; AND

29 (11) ANY OTHER INFORMATION THAT THE DEPARTMENT MAY REQUIRE.

30 (D) A HOUSING PROGRAM WITH A SPECIAL CARE UNIT OR PROGRAM SHALL  
31 DISCLOSE THE WRITTEN DESCRIPTION OF THE SPECIAL CARE UNIT TO:

32 (1) ANY PERSON ON REQUEST; AND



1           (2)     THE FAMILY OR PARTY RESPONSIBLE FOR ANY RESIDENT PRIOR TO  
2 ADMISSION OF THE RESIDENT TO THE SPECIAL CARE UNIT OR PROGRAM.

3 19-1810.

4     (A)     (1)     A HOUSING PROGRAM MAY NOT ADVERTISE, REPRESENT OR IMPLY  
5 TO THE PUBLIC, OR HOLD ITSELF OUT AS AUTHORIZED TO PROVIDE A SERVICE FOR  
6 WHICH IT IS NOT LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED BY THE  
7 DEPARTMENT WHEN THE LICENSE, CERTIFICATE, OR AUTHORIZATION IS REQUIRED  
8 BY THIS SUBTITLE OR THE REGULATIONS ADOPTED BY THE SECRETARY UNDER THIS  
9 SUBTITLE.

10           (2)     A HOUSING PROGRAM MAY NOT ADVERTISE IN A MANNER THAT IS  
11 MISLEADING OR FRAUDULENT.

12           (3)     A HOUSING PROGRAM MAY NOT ADVERTISE SPECIAL CARE UNITS  
13 UNLESS THOSE UNITS HAVE BEEN APPROVED BY THE DEPARTMENT.

14     (B)     AN ADULT CARE HOME MAY NOT ACCEPT A REFERRAL FROM A HOSPITAL.

15     (C)     A HOUSING PROGRAM THAT VIOLATES THIS SECTION MAY BE SUBJECT TO  
16 A CIVIL MONEY PENALTY IMPOSED BY THE SECRETARY NOT TO EXCEED \$10,000 FOR  
17 EACH OFFENSE UNDER THIS SECTION. THE APPLICANT MAY APPEAL THE DECISION  
18 UNDER THE ADMINISTRATIVE PROCEDURE ACT, TITLE 10, SUBTITLE 2 OF THE STATE  
19 GOVERNMENT ARTICLE AND IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE  
20 SECRETARY.

21     SECTION 2. AND BE IT FURTHER ENACTED, That the Department of  
22 Health and Mental Hygiene, in consultation with housing programs as defined in §  
23 19-1801 of the Health - General Article as enacted by Section 1 of this Act, shall  
24 adopt regulations to implement the provisions of this Act.

25     SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take  
26 effect October 1, 2006.