
By: **Delegate Costa**

Introduced and read first time: February 6, 2006

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Long-Term Care Inspection Program**

3 FOR the purpose of requiring the Secretary of Health and Mental Hygiene to develop
4 a long-term care inspection program; requiring the long-term care inspection
5 program to be consistent with State and federal law; providing for the purpose of
6 the program; requiring the Secretary to implement a licensure program for
7 long-term care inspectors; requiring certain applicants for a long-term care
8 inspector license to meet certain training requirements established by the
9 Secretary; requiring the Secretary to ensure that certain long-term care
10 facilities undergo an annual quality and safety inspection by a licensed
11 long-term care inspector; authorizing the Secretary to contract with certain
12 individuals or private entities to perform the quality and safety inspections of
13 certain long-term care facilities; providing that any procurement of services in
14 the inspection program is subject to the purposes and requirements of the State
15 Finance and Procurement Article; requiring certain long-term care facilities to
16 pay a certain annual fee to the Secretary to cover the expenses of the quality and
17 safety inspections; authorizing the Secretary to impose a certain administrative
18 penalty under certain circumstances; requiring the Secretary to adopt
19 regulations to provide certain standards for the imposition of a certain
20 administrative penalty; providing for an appeals process for long-term care
21 facilities under certain circumstances; requiring the Maryland Long-Term Care
22 Ombudsman to develop a process to oversee the inspections of certain long-term
23 care facilities and a certain appeal process; requiring the Secretary, in
24 consultation with the Office of Health Care Quality, to adopt regulations to
25 implement a long-term care inspection program; defining a certain term; and
26 generally relating to the inspection of long-term care facilities and licensing of
27 long-term care inspectors.

28 BY repealing and reenacting, with amendments,
29 Article 70B - Department of Aging
30 Section 5
31 Annotated Code of Maryland
32 (2003 Replacement Volume and 2005 Supplement)

33 BY adding to

1 Article - Health - General
2 Section 19-2301 through 19-2308, inclusive, to be under the new subtitle
3 "Subtitle 23. Long-Term Care Inspection Program"
4 Annotated Code of Maryland
5 (2005 Replacement Volume and 2005 Supplement)

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

8 **Article 70B - Department of Aging**

9 5.

10 (a) The Secretary shall receive, investigate, and seek to resolve complaints
11 concerning the operations of related institutions, as defined in § 19-301 of the Health
12 - General Article, and the Secretary may, on the Secretary's own motion, make
13 on-site visits to determine if these institutions are in compliance with applicable
14 laws, rules, and regulations.

15 (b) If the Secretary finds that any such related institution is in violation of
16 any statute, rule, or regulation of any State agency which is directly and specifically
17 charged with the regulation of any aspect of the institution, the Secretary shall
18 immediately notify that agency in writing of the findings of fact. If the violation or
19 condition is not corrected within a reasonable time, the Secretary shall request the
20 State agency to take the steps necessary to bring the institution into compliance, and
21 the agency shall take appropriate action.

22 (c) There is established in the Department a Maryland Long-Term Care
23 Ombudsman Program. The Secretary shall designate a Maryland Long-Term Care
24 Ombudsman.

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

30 (2) The regulations shall provide for:

31 (i) Minimum training requirements for all program staff and
32 volunteers;

33 (ii) Cooperation with the Departments of Health and Mental
34 Hygiene and Human Resources;

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

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

4 (v) Maintenance by the local ombudsman of a recordkeeping or
5 information system which assures the confidentiality of records or files and the right
6 of privacy of any complainant or resident of a related institution;

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

10 (vii) A process for assisting individuals with organizing and
11 operating a family council in a nursing home;

12 (VIII) DEVELOPMENT OF A PROCESS BY THE LOCAL OMBUDSMAN TO
13 OVERSEE THE INSPECTIONS OF LONG-TERM CARE FACILITIES AUTHORIZED BY §
14 19-2305 OF THE HEALTH - GENERAL ARTICLE; AND

15 (IX) DEVELOPMENT OF A PROCESS BY THE LOCAL OMBUDSMAN TO
16 OVERSEE THE APPEAL PROCESS FOR AN ADMINISTRATIVE PENALTY IMPOSED
17 UNDER SUBTITLE 23 OF THE HEALTH - GENERAL ARTICLE.

18 (3) The Secretary shall establish and submit a budget for minimum
19 staffing ratios for the Ombudsman Program at the higher of:

20 (i) One full-time ombudsman per 1,000 long-term care beds;

21 (ii) 20 hours of ombudsman time per week per area agency; or

22 (iii) 10 hours of ombudsman time per week per nursing home.

23 (e) (1) Representatives of the Long-Term Care Ombudsman Program may
24 not be held liable for the good faith performance of their official duties.

25 (2) The Secretary shall adopt regulations to establish conflict of interest
26 provisions within the Long-Term Care Ombudsman Program.

27 (f) (1) A person may not willfully interfere with representatives of the
28 Long-Term Care Ombudsman Program in the performance of their official duties.

29 (2) A person may not retaliate or make reprisals with respect to any
30 person who filed a complaint with, or provided information to, a representative of the
31 Long-Term Care Ombudsman Program.

32 (3) A person who violates any provision of this subsection is guilty of a
33 misdemeanor and is subject to a penalty of not more than \$1,500.

1 **Article - Health - General**

2 SUBTITLE 23. LONG-TERM CARE INSPECTION PROGRAM.

3 19-2301.

4 IN THIS SUBTITLE, "LONG-TERM CARE FACILITY" MEANS:

5 (1) AN ASSISTED LIVING PROGRAM FACILITY REGULATED UNDER
6 SUBTITLE 18 OF THIS TITLE;

7 (2) A NURSING HOME REGULATED UNDER SUBTITLE 14 OF THIS TITLE;

8 (3) A RELATED INSTITUTION THAT PROVIDES LONG-TERM CARE
9 REGULATED UNDER SUBTITLE 3 OF THIS TITLE; OR10 (4) ANY OTHER FACILITY THE SECRETARY DETERMINES TO BE A
11 PROVIDER OF LONG-TERM CARE.

12 19-2302.

13 (A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE SECRETARY SHALL
14 DEVELOP AND IMPLEMENT A LONG-TERM CARE INSPECTION PROGRAM IN THE
15 STATE TO:16 (1) ESTABLISH AND ENFORCE QUALITY OF CARE AND SAFETY
17 STANDARDS FOR LONG-TERM CARE FACILITIES IN THE STATE; AND18 (2) ESTABLISH REQUIREMENTS FOR THE LICENSURE AND TRAINING OF
19 LONG-TERM CARE INSPECTORS.20 (B) THE LONG-TERM CARE INSPECTION PROGRAM DEVELOPED UNDER THIS
21 SUBTITLE SHALL BE CONSISTENT WITH STATE AND FEDERAL LAW.

22 19-2303.

23 THE PURPOSE OF THE PROGRAM IS TO ASSURE THE CITIZENS OF THE STATE
24 THAT LONG-TERM CARE FACILITIES PROVIDE QUALITY CARE.

25 19-2304.

26 (A) THE SECRETARY SHALL IMPLEMENT A LICENSURE PROGRAM FOR
27 LONG-TERM CARE INSPECTORS.28 (B) TO QUALIFY FOR LICENSURE, THE APPLICANT SHALL MEET THE TRAINING
29 REQUIREMENTS ESTABLISHED BY THE SECRETARY, INCLUDING MINIMUM
30 REQUIRED TRAINING HOURS AND CONTINUED EDUCATION TO MAINTAIN
31 LICENSURE.

1 19-2305.

2 (A) THE SECRETARY SHALL ENSURE THAT EACH LICENSED OR CERTIFIED
3 LONG-TERM CARE FACILITY IN THE STATE UNDERGOES AN ANNUAL QUALITY OF
4 CARE AND SAFETY INSPECTION BY A LICENSED LONG-TERM CARE INSPECTOR.

5 (B) (1) THE SECRETARY MAY CONTRACT WITH AN INDIVIDUAL OR PRIVATE
6 ENTITY TO PERFORM QUALITY AND SAFETY INSPECTIONS OF LONG-TERM CARE
7 FACILITIES IN THE STATE.

8 (2) ANY PROCUREMENT FOR SERVICES TO BE PERFORMED UNDER THIS
9 SECTION IS SUBJECT TO THE PURPOSES AND REQUIREMENTS OF THE STATE
10 FINANCE AND PROCUREMENT ARTICLE.

11 19-2306.

12 (A) (1) EACH LONG-TERM CARE FACILITY IN THE STATE SHALL PAY TO THE
13 SECRETARY AN ANNUAL INSPECTION FEE ESTABLISHED BY THE SECRETARY.

14 (2) THE INSPECTION FEE SHALL BE ADJUSTED ACCORDING TO THE
15 NUMBER OF LICENSED BEDS IN THE LONG-TERM CARE FACILITY.

16 (B) THE INSPECTION FEE SHALL COVER THE COST OF THE QUALITY AND
17 SAFETY INSPECTION OF THE LONG-TERM CARE FACILITY.

18 19-2307.

19 (A) (1) THE SECRETARY MAY IMPOSE AN ADMINISTRATIVE PENALTY FOR A
20 VIOLATION BY A LONG-TERM CARE FACILITY OF ANY PROVISION OF THIS SUBTITLE
21 OR ANY REGULATIONS ADOPTED UNDER THIS SUBTITLE.

22 (2) THE SECRETARY SHALL ADOPT REGULATIONS TO PROVIDE
23 STANDARDS FOR THE IMPOSITION OF AN ADMINISTRATIVE PENALTY UNDER
24 PARAGRAPH (1) OF THIS SUBSECTION.

25 (B) IF AN ADMINISTRATIVE PENALTY IS IMPOSED UNDER THIS SECTION, THE
26 LONG-TERM CARE FACILITY SHALL HAVE THE RIGHT TO APPEAL TO THE BOARD OF
27 REVIEW OF THE DEPARTMENT AND TAKE ANY FURTHER APPEAL PROVIDED BY THE
28 STATE GOVERNMENT ARTICLE.

29 19-2308.

30 THE SECRETARY, IN CONSULTATION WITH THE OFFICE OF HEALTH CARE
31 QUALITY, SHALL ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 October 1, 2006.