
By: **Delegates Mandel, Bobo, Bronrott, Conroy, DeBoy, Doory, Frush,
Gilleland, Goldwater, Lee, Madaleno, McComas, Montgomery, Parker,
Parrott, and Pendergrass**

Introduced and read first time: February 9, 2006

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Assisted Living Programs - Prohibited Acts, Penalties, and Quality Account**

3 FOR the purpose of prohibiting a person from knowingly operating, maintaining, or
4 owning an assisted living program without a license; prohibiting a person from
5 advertising, representing, or implying to the public that an assisted living
6 program is authorized to provide certain services that the program is not
7 licensed, certified, or otherwise authorized to provide; prohibiting a person from
8 advertising an assisted living program in a misleading or fraudulent manner;
9 providing for certain penalties; authorizing an assisted living program to
10 request a certain appeal of a certain civil money penalty; establishing a Health
11 Care Quality Account for Assisted Living Programs in the Department of Health
12 and Mental Hygiene; providing for the funding of the Account; requiring the
13 Department to pay certain collected penalties to the State Comptroller;
14 requiring the Comptroller to distribute certain collected funds to the Account;
15 providing that the Account is a continuing nonlapsing fund; providing that any
16 unspent portions of the Account shall remain in the Account; providing that the
17 Account shall be used for certain purposes designed to improve the quality of
18 care; requiring the Department to adopt certain regulations; and generally
19 relating to assisted living programs.

20 BY adding to

21 Article - Health - General

22 Section 19-1808 through 19-1810

23 Annotated Code of Maryland

24 (2005 Replacement Volume and 2005 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

26 MARYLAND, That the Laws of Maryland read as follows:

1 **Article - Health - General**

2 19-1808.

3 (A) (1) A PERSON MAY NOT KNOWINGLY OPERATE, MAINTAIN, OR OWN AN
4 ASSISTED LIVING PROGRAM WITHOUT A LICENSE.5 (2) A PERSON WHO VIOLATES PARAGRAPH (1) OF THIS SUBSECTION IS
6 GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO:7 (I) FOR A FIRST OFFENSE, A FINE NOT EXCEEDING \$10,000 OR
8 IMPRISONMENT NOT EXCEEDING 5 YEARS OR BOTH; OR9 (II) FOR A SUBSEQUENT OFFENSE, A FINE NOT EXCEEDING \$20,000
10 OR IMPRISONMENT NOT EXCEEDING 5 YEARS OR BOTH.11 (B) (1) (I) A PERSON MAY NOT ADVERTISE, REPRESENT, OR IMPLY TO THE
12 PUBLIC THAT AN ASSISTED LIVING PROGRAM IS AUTHORIZED TO PROVIDE A
13 SERVICE THAT THE PROGRAM IS NOT LICENSED, CERTIFIED, OR OTHERWISE
14 AUTHORIZED BY THE DEPARTMENT TO PROVIDE WHEN THE LICENSE, CERTIFICATE,
15 OR AUTHORIZATION IS REQUIRED UNDER THIS SUBTITLE.16 (II) A PERSON MAY NOT ADVERTISE AN ASSISTED LIVING PROGRAM
17 IN A MISLEADING OR FRAUDULENT MANNER.18 (2) A PERSON WHO VIOLATES PARAGRAPH (1) OF THIS SUBSECTION IS
19 SUBJECT TO A CIVIL MONEY PENALTY IMPOSED BY THE SECRETARY NOT EXCEEDING
20 \$10,000 FOR EACH OFFENSE.

21 19-1809.

22 (A) AN ASSISTED LIVING PROGRAM MAY REQUEST AN APPEAL OF A CIVIL
23 MONEY PENALTY IMPOSED UNDER THIS SUBTITLE.

24 (B) A HEARING ON THE APPEAL SHALL BE HELD IN ACCORDANCE WITH:

25 (1) THE ADMINISTRATIVE PROCEDURE ACT UNDER TITLE 10, SUBTITLE 2
26 OF THE STATE GOVERNMENT ARTICLE; AND

27 (2) REGULATIONS ADOPTED BY THE SECRETARY.

28 19-1810.

29 (A) (1) THERE IS A HEALTH CARE QUALITY ACCOUNT FOR ASSISTED LIVING
30 PROGRAMS ESTABLISHED IN THE DEPARTMENT.31 (2) THE ACCOUNT SHALL BE FUNDED BY CIVIL MONEY PENALTIES PAID
32 BY ASSISTED LIVING PROGRAMS AND OTHER PENALTIES THAT THE OFFICE OF
33 HEALTH CARE QUALITY MAY ASSESS.

1 (3) THE DEPARTMENT SHALL PAY ALL PENALTIES COLLECTED UNDER
2 THIS TITLE TO THE COMPTROLLER.

3 (4) THE COMPTROLLER SHALL DISTRIBUTE FUNDS COLLECTED UNDER
4 THIS TITLE TO THE HEALTH CARE QUALITY ACCOUNT FOR ASSISTED LIVING
5 PROGRAMS.

6 (5) THE ACCOUNT IS A CONTINUING, NONLAPSING FUND, NOT SUBJECT
7 TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

8 (6) ANY UNSPENT PORTIONS OF THE ACCOUNT MAY NOT BE
9 TRANSFERRED OR REVERTED TO THE GENERAL FUND OF THE STATE, BUT SHALL
10 REMAIN IN THE ACCOUNT TO BE USED FOR THE PURPOSES SPECIFIED IN THIS
11 SECTION.

12 (B) THE HEALTH CARE QUALITY ACCOUNT FOR ASSISTED LIVING SHALL BE
13 USED FOR TRAINING, GRANT AWARDS, DEMONSTRATION PROJECTS, OR OTHER
14 PURPOSES DESIGNED TO IMPROVE THE QUALITY OF CARE.

15 (C) THE DEPARTMENT SHALL ADOPT REGULATIONS FOR THE DISTRIBUTION
16 OF FUNDS FROM THE HEALTH CARE QUALITY ACCOUNT FOR ASSISTED LIVING.

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