
By: **Delegates Petzold, Feldman, King, and Menes**

Introduced and read first time: February 10, 2006

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Vulnerable Adults - Home Care Providers - Registration and Regulation**

3 FOR the purpose of requiring the Department of Health and Mental Hygiene, in
4 consultation with the Department of Aging, to implement a system of
5 registration for certain home care providers for certain vulnerable adults;
6 providing for the purpose of the registration of certain home care providers;
7 requiring the Department to adopt certain regulations relating to the
8 registration of certain home care providers; requiring certain regulations to be
9 uniform with other rules and regulations adopted by certain State agencies so
10 far as practicable; requiring the regulations of the Department to include
11 certain standards; prohibiting certain home care providers from providing
12 services unless registered except in certain circumstances; requiring the
13 Department to prepare, update, and distribute a certain pamphlet including
14 certain information; providing for the revocation of a certain registration under
15 certain circumstances; providing hearing and appeal provisions; establishing
16 certain penalties for certain violations; defining certain terms; and generally
17 relating to the registration and regulation of home care providers for vulnerable
18 adults.

19 BY adding to

20 Article - Family Law

21 Section 14-2A-01 through 14-2A-09, inclusive, to be under the new subtitle

22 "Subtitle 2A. Registration of Home Care Providers for Vulnerable Adults"

23 Annotated Code of Maryland

24 (2004 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 - Family Law

2

SUBTITLE 2A. REGISTRATION OF HOME CARE PROVIDERS FOR VULNERABLE
ADULTS.

3

4 14-2A-01.

5 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
6 INDICATED.

7 (B) "DEPARTMENT" MEANS THE DEPARTMENT OF HEALTH AND MENTAL
8 HYGIENE.

9 (C) "HOME CARE PROVIDER" MEANS AN INDIVIDUAL WHO PROVIDES CARE
10 FOR AN UNRELATED VULNERABLE ADULT IN THE HOME OF THE VULNERABLE
11 ADULT.

12 (D) "SECRETARY" MEANS THE SECRETARY OF HEALTH AND MENTAL
13 HYGIENE.

14 14-2A-02.

15 (A) THE DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT OF AGING,
16 SHALL IMPLEMENT A SYSTEM OF REGISTRATION FOR HOME CARE PROVIDERS OF
17 VULNERABLE ADULTS.

18 (B) THE PURPOSE OF REGISTRATION OF HOME CARE PROVIDERS IS TO:

19 (1) PROTECT THE HEALTH, SAFETY, AND WELFARE OF VULNERABLE
20 ADULTS WHO RECEIVE CARE, OFTEN ALONE, IN THEIR HOME;

21 (2) IDENTIFY HOME CARE PROVIDERS;

22 (3) PROVIDE BASIC TECHNICAL ASSISTANCE, INFORMATION
23 CONCERNING NEEDS OF ADULTS, AND OTHER STATE SERVICES THAT ARE
24 AVAILABLE TO HOME CARE PROVIDERS; AND

25 (4) MINIMIZE THE REGULATORY RIGIDITY OFTEN ASSOCIATED WITH
26 LICENSING.

27 (C) THE SYSTEM OF REGISTRATION IS INTENDED TO PROMOTE A HIGH
28 DEGREE OF FLEXIBILITY IN THE REGULATION OF HOME CARE PROVIDERS WHILE
29 ASSURING THE HEALTH AND SAFETY OF VULNERABLE ADULTS WHO ARE CARED FOR
30 IN THEIR HOMES.

31 14-2A-03.

32 (A) THE DEPARTMENT SHALL ADOPT REGULATIONS THAT RELATE TO THE
33 REGISTRATION OF HOME CARE PROVIDERS OF VULNERABLE ADULTS.

1 (B) SO FAR AS PRACTICABLE, THE REGULATIONS SHALL BE UNIFORM WITH
2 THE REGULATIONS ADOPTED BY OTHER STATE AGENCIES AS THOSE REGULATIONS
3 RELATE TO OTHER TYPES OF IN-HOME CARE PROVIDED TO VULNERABLE ADULTS.

4 (C) AT A MINIMUM, THE REGULATIONS OF THE DEPARTMENT SHALL PROVIDE
5 FOR:

6 (1) MINIMUM STANDARDS OF ENVIRONMENTAL HEALTH AND SAFETY,
7 INCLUDING PROVISIONS FOR:

8 (I) ADEQUATE AND SAFE PHYSICAL SURROUNDINGS;

9 (II) THE PHYSICAL AND MENTAL HEALTH OF HOME CARE
10 PROVIDERS; AND

11 (III) INVESTIGATION OF ANY CRIMINAL RECORD OF A HOME CARE
12 PROVIDER;

13 (2) A THOROUGH EVALUATION OF EACH PROSPECTIVE HOME CARE
14 PROVIDER, TO BE COMPLETED BEFORE THE DEPARTMENT ACCEPTS AN INITIAL
15 REGISTRATION;

16 (3) AN INITIAL HOME CARE PROVIDER REGISTRATION THAT EXPIRES 2
17 YEARS AFTER ITS EFFECTIVE DATE;

18 (4) A CONTINUING HOME CARE PROVIDER REGISTRATION THAT:

19 (I) ON APPLICATION BY THE HOME CARE PROVIDER THAT MEETS
20 THE REQUIREMENTS SET BY THE DEPARTMENT, IS ISSUED TO THE HOME CARE
21 PROVIDER BEFORE THE END OF THE INITIAL REGISTRATION PERIOD; AND

22 (II) ONCE ISSUED, REMAINS IN EFFECT UNTIL SURRENDERED,
23 SUSPENDED, REVOKED, OR REPLACED BY A CONDITIONAL REGISTRATION;

24 (5) REPORTING, BY THE HOME CARE PROVIDER, OF ANY CHANGED
25 CIRCUMSTANCES THAT RELATE TO THE REQUIREMENTS AT THE TIME THE CHANGE
26 OCCURS;

27 (6) AN ORIENTATION TO BE PROVIDED TO PROSPECTIVE HOME CARE
28 PROVIDERS BY THE DEPARTMENT BEFORE INITIAL REGISTRATION;

29 (7) ANNOUNCED INSPECTION BY THE DEPARTMENT OF EACH
30 REGISTERED HOME CARE PROVIDER PRIOR TO ISSUANCE OF AN INITIAL
31 REGISTRATION AND AT LEAST ONCE EVERY 2 YEARS THEREAFTER TO DETERMINE
32 WHETHER APPLICABLE REQUIREMENTS, INCLUDING RECORD KEEPING
33 REQUIREMENTS, ARE BEING MET;

34 (8) UNANNOUNCED INSPECTION BY THE DEPARTMENT OF EACH
35 REGISTERED HOME CARE PROVIDER AT LEAST ONCE DURING EACH 12-MONTH
36 PERIOD THAT AN INITIAL OR CONTINUING REGISTRATION IS IN EFFECT TO

1 DETERMINE WHETHER SAFE AND APPROPRIATE CARE IS BEING PROVIDED TO THE
2 VULNERABLE ADULTS;

3 (9) PROCEDURES TO BE FOLLOWED BY THE DEPARTMENT IN RESPONSE
4 TO A COMPLAINT ABOUT A HOME CARE PROVIDER;

5 (10) A REQUIREMENT THAT A PERSON WHO ADVERTISES AS A HOME
6 CARE PROVIDER SHALL:

7 (I) INDICATE IN THE ADVERTISEMENT THAT THE HOME CARE
8 PROVIDER IS REGISTERED; AND

9 (II) DISPLAY IN THE ADVERTISEMENT THE REGISTRATION
10 NUMBER ISSUED TO THE HOME CARE PROVIDER BY THE DEPARTMENT; AND

11 (11) A REQUIREMENT THAT EACH REGISTERED HOME CARE PROVIDER
12 SHALL HOLD A CURRENT CERTIFICATE INDICATING SUCCESSFUL COMPLETION OF
13 APPROVED:

14 (I) BASIC FIRST AID TRAINING THROUGH THE AMERICAN RED
15 CROSS OR THROUGH A PROGRAM WITH EQUIVALENT STANDARDS; AND

16 (II) CARDIOPULMONARY RESUSCITATION (CPR) TRAINING
17 THROUGH THE AMERICAN HEART ASSOCIATION OR THROUGH A PROGRAM WITH
18 EQUIVALENT STANDARDS APPROPRIATE FOR THE AGES AND PHYSICAL CONDITION
19 OF INDIVIDUALS FOR WHOM CARE IS PROVIDED BY THE HOME CARE PROVIDER.

20 14-2A-04.

21 (A) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A HOME CARE
22 PROVIDER MAY NOT PROVIDE SERVICES UNLESS THE HOME CARE PROVIDER IS
23 REGISTERED.

24 (B) A HOME CARE PROVIDER IS NOT REQUIRED TO BE REGISTERED IF THE
25 HOME CARE PROVIDER:

26 (1) IS RELATED TO EACH VULNERABLE ADULT BY BLOOD OR MARRIAGE;
27 OR

28 (2) IS A FRIEND OF THE VULNERABLE ADULT AND THE CARE IS
29 PROVIDED ON AN OCCASIONAL BASIS.

30 (C) A PERSON MAY NOT ADVERTISE AS A HOME CARE PROVIDER UNLESS THE
31 PERSON IS REGISTERED UNDER THE PROVISIONS OF THIS SUBTITLE.

32 (D) AN EMPLOYEE OF THE DEPARTMENT CHARGED WITH THE
33 INVESTIGATION AND ENFORCEMENT OF REGULATIONS CONCERNING THE CARE OF
34 VULNERABLE ADULTS MAY SERVE A CIVIL CITATION TO AN INDIVIDUAL FOUND IN
35 VIOLATION OF THIS SECTION.

1 14-2A-05.

2 (A) THE DEPARTMENT SHALL PREPARE AND, AS NEEDED, UPDATE AN
3 INFORMATIONAL PAMPHLET FOR FAMILIES AND LEGAL REPRESENTATIVES OF
4 VULNERABLE ADULTS RECEIVING SERVICES FROM A HOME CARE PROVIDER.

5 (B) THE PAMPHLET SHALL CONTAIN:

6 (1) AN OUTLINE OF HOME CARE PROVIDER REGULATIONS;

7 (2) A DESCRIPTION OF THE RIGHTS AND RESPONSIBILITIES OF THE
8 VULNERABLE ADULT AND THE FAMILY OR LEGAL REPRESENTATIVE OF THE
9 VULNERABLE ADULT;

10 (3) A DESCRIPTION OF COMPLAINT PROCEDURES; AND

11 (4) THE ADDRESS AND TELEPHONE NUMBER OF THE LOCAL
12 DEPARTMENT.

13 (C) THE DEPARTMENT SHALL MAKE THE PAMPHLET AVAILABLE TO HOME
14 CARE PROVIDERS FOR DISTRIBUTION TO VULNERABLE ADULTS RECEIVING
15 SERVICES AND THE FAMILY OR LEGAL REPRESENTATIVE OF THE VULNERABLE
16 ADULT RECEIVING SERVICES.

17 14-2A-06.

18 (A) SUBJECT TO THE HEARING PROVISIONS OF SUBSECTION (C) OF THIS
19 SECTION, IF A REGISTERED HOME CARE PROVIDER VIOLATES ANY PROVISION OF
20 THIS SUBTITLE OR A REGULATION ADOPTED UNDER THIS SUBTITLE, THE
21 DEPARTMENT MAY REVOKE THE REGISTRATION.

22 (B) A HOME CARE PROVIDER MAY APPEAL A REVOCATION OF A
23 REGISTRATION.

24 (C) THE SECRETARY MAY NOT REVOKE A REGISTRATION UNDER THIS
25 SUBTITLE UNLESS THE SECRETARY GIVES TO THE REGISTERED HOME CARE
26 PROVIDER:

27 (1) NOTICE OF THE REVOCATION AT LEAST 20 DAYS BEFORE THE
28 REVOCATION;

29 (2) A STATEMENT OF THE GROUNDS FOR THE REVOCATION; AND

30 (3) AN OPPORTUNITY TO BE HEARD.

31 14-2A-07.

32 (A) A PERSON AGGRIEVED BY A FINAL DECISION OF THE HIGHEST
33 ADMINISTRATIVE APPELLATE AUTHORITY IN A CONTESTED CASE MAY TAKE ANY
34 FURTHER APPEAL AS ALLOWED BY THE ADMINISTRATIVE PROCEDURE ACT.

1 (B) IF A FURTHER APPEAL IS TAKEN UNDER THIS SECTION:

2 (1) ANY CRIMINAL PROSECUTION OF THE PERSON FOR CARRYING ON
3 WITHOUT REGISTRATION AN ACTIVITY FOR WHICH THE PERSON MUST BE
4 REGISTERED UNDER THIS SUBTITLE SHALL BE STAYED PENDING THE APPEAL;

5 (2) ANY INJUNCTION AGAINST THE PERSON FOR CARRYING ON
6 WITHOUT REGISTRATION AN ACTIVITY FOR WHICH THE PERSON MUST BE
7 REGISTERED UNDER THIS SUBTITLE SHALL BE STAYED PENDING THE APPEAL; AND

8 (3) THE COURT HAS DISCRETION AS TO THE CARE OF ANY VULNERABLE
9 ADULT WHOSE CARE IS THE RESPONSIBILITY OF THE PERSON.

10 14-2A-08.

11 A PERSON WHO VIOLATES § 14-2A-04 OF THIS SUBTITLE IS GUILTY OF A
12 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000.
13 14-2A-09.

14 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION AND SUBJECT
15 TO THE PROVISIONS OF SUBSECTION (D) OF THIS SECTION, A PERSON WHO VIOLATES
16 ANY PROVISION OF THIS SUBTITLE OR ANY REGULATION ADOPTED UNDER THIS
17 SUBTITLE IS SUBJECT TO A CIVIL PENALTY IMPOSED IN A CIVIL ACTION NOT
18 EXCEEDING \$1,000 FOR EACH VIOLATION.

19 (B) (1) A PERSON WHO VIOLATES § 14-2A-04 OF THIS SUBTITLE AND IS
20 SERVED A CIVIL CITATION UNDER THAT SECTION IS SUBJECT TO A CIVIL PENALTY AS
21 FOLLOWS:

22 (I) \$250 FOR THE FIRST VIOLATION;

23 (II) \$500 FOR THE SECOND VIOLATION; AND

24 (III) \$1,000 FOR THE THIRD AND EACH SUBSEQUENT VIOLATION.

25 (2) ANY MONEY COLLECTED UNDER THIS SUBSECTION SHALL BE
26 DEPOSITED INTO THE GENERAL FUND OF THE STATE.

27 (3) ANY PERSON SERVED WITH A CITATION UNDER THIS SUBSECTION
28 MAY APPEAL THE CITATION TO THE OFFICE OF ADMINISTRATIVE HEARINGS IN
29 ACCORDANCE WITH § 10-205 OF THE STATE GOVERNMENT ARTICLE.

30 (C) EACH DAY A VIOLATION OCCURS IS A SEPARATE VIOLATION UNDER THIS
31 SECTION.

32 (D) THE TOTAL AMOUNT OF CIVIL PENALTIES IMPOSED IN AN ACTION UNDER
33 THIS SECTION MAY NOT EXCEED \$5,000.

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

