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By: **Delegates Mandel, Barve, Benson, Boteler, Bromwell, Donoghue, Elliott, Goldwater, Hammen, Hubbard, Kach, Kullen, Pendergrass, V. Turner, and Weldon**

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Assigned to: Health and Government Operations

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 20, 2006

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Assisted Living Programs - Licensure**

3 FOR the purpose of requiring a person to be licensed by the Department of Health  
 4 and Mental Hygiene to conduct, operate, or maintain an assisted living  
 5 program; exempting certain housing provided under a certain care program  
 6 from assisted living requirements; altering a certain definition; requiring a  
 7 person seeking an assisted living program license to submit a certain  
 8 application, certain information when applying for initial licensure, and a  
 9 certain fee to the Secretary of Health and Mental Hygiene; requiring the  
 10 Secretary to develop a certain application; requiring the Secretary to conduct a  
 11 certain review and investigation of applicants for an assisted living program  
 12 license; requiring the Secretary to issue a certain approval or to deny applicants  
 13 for an assisted living program license; providing that an assisted living program  
 14 license is valid for a certain period of time; authorizing the Secretary to issue a  
 15 certain probationary license; requiring the Department, in consultation with  
 16 certain individuals and groups, to develop a certain methodology; requiring the  
 17 Department, on or before certain dates, to submit certain reports to certain  
 18 committees of the General Assembly; requiring the Department to adopt certain  
 19 regulations; providing for the application of certain provisions of this Act; and  
 20 generally relating to assisted living programs.

21 BY repealing and reenacting, with amendments,

22 Article 88A - Department of Human Resources

23 Section 140

24 Annotated Code of Maryland

1 (2003 Replacement Volume and 2005 Supplement)

2 BY repealing and reenacting, with amendments,

3 Article - Health - General

4 Section 19-1801

5 Annotated Code of Maryland

6 (2005 Replacement Volume and 2005 Supplement)

7 BY adding to

8 Article - Health - General

9 Section 19-1804.1

10 Annotated Code of Maryland

11 (2005 Replacement Volume and 2005 Supplement)

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

14 **Article 88A - Department of Human Resources**

15 140.

16 (a) The Department of Human Resources shall administer a care program in  
17 this State that provides housing and related services for adults who, because of  
18 disability, require a supportive housing arrangement to reside in the community.

19 (b) In accordance with the State budget, the care program shall:

20 (1) Provide for the development of care housing;

21 (2) Provide for case management to disabled individuals residing in care  
22 housing; and

23 (3) Arrange for the provision of supportive services to disabled  
24 individuals residing in care housing.

25 [(c) The Department of Human Resources may only provide housing under the  
26 care program in assisted living program facilities licensed to operate under § 19-1801  
27 of the Health - General Article.]

28 [(d)] (C) The Department of Human Resources, the Department of Education,  
29 the Department of Health and Mental Hygiene, and the Department of Aging shall  
30 provide appropriate ancillary services to disabled individuals in the care program in  
31 keeping with programmatic eligibility and priority criteria and budgetary resources.

32 [(e)] (D) The Secretary of Human Resources, the Secretary of Health and  
33 Mental Hygiene, the State Superintendent of Schools, and the Secretary of Aging  
34 shall:

1 (1) Coordinate departmental programs to assure that the services  
2 needed by disabled adults residing in care housing are provided in an integrated and  
3 cost-effective manner; and

4 (2) Prepare a written memorandum of agreement which will specify  
5 what services are to be provided by each departmental program, how the delivery of  
6 these services shall be integrated, and the timing of the delivery of the services.

7 **Article - Health - General**

8 19-1801.

9 In this subtitle:

10 (1) "Assisted living program" means a residential or facility-based  
11 program that provides housing and supportive services, supervision, personalized  
12 assistance, health-related services, or a combination thereof that meets the needs of  
13 individuals who are unable to perform or who need assistance in performing the  
14 activities of daily living or instrumental activities of daily living in a way that  
15 promotes optimum dignity and independence for the individuals.

16 (2) "Assisted living program" does not include:

17 (i) A nursing home, as defined under § 19-301 of this title;

18 (ii) A State facility, as defined under § 10-101 of this article;

19 (iii) A program licensed by the Department under Title 7 or Title 10  
20 of this article;

21 (iv) A hospice care program regulated by the Department under  
22 Subtitle 9 of this title;

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

24 (vi) Services provided in an individual's own home; OR

25 (VII) A PROGRAM CERTIFIED BY THE DEPARTMENT OF HUMAN  
26 RESOURCES UNDER § 140 OF ARTICLE 88A AS A CERTIFIED ADULT RESIDENTIAL  
27 ENVIRONMENT PROGRAM.

28 19-1804.1.

29 (A) A PERSON SHALL BE LICENSED BY THE DEPARTMENT TO CONDUCT,  
30 OPERATE, OR MAINTAIN AN ASSISTED LIVING PROGRAM IN THE STATE.

31 (B) (1) A PERSON SHALL SUBMIT AN APPLICATION FOR LICENSURE TO  
32 CONDUCT, OPERATE, OR MAINTAIN AN ASSISTED LIVING PROGRAM TO THE  
33 SECRETARY ON A FORM DEVELOPED BY THE SECRETARY.

1           (2)    (I)    THE SECRETARY SHALL DEVELOP THE APPLICATION FOR  
2 LICENSURE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

3                   (II)    THE APPLICATION SHALL INCLUDE THE NAME AND ADDRESS  
4 OF EACH OFFICER, MANAGER, ALTERNATE MANAGER, AND DELEGATING NURSE OR  
5 CASE MANAGER OF THE ASSISTED LIVING PROGRAM.

6           (3)    AN APPLICANT FOR LICENSURE SHALL SUBMIT THE FEE  
7 ESTABLISHED IN REGULATION UNDER § 19-1805(C)(2)(II) OF THIS SUBTITLE.

8           ~~(3)~~   (4)    IN ADDITION TO THE APPLICATION, AN APPLICANT FOR INITIAL  
9 LICENSURE SHALL SUBMIT TO THE SECRETARY:

10                   (I)    ~~THE FEE ESTABLISHED IN REGULATION UNDER §~~  
11 ~~19-1805(C)(2)(II) OF THIS SUBTITLE;~~

12                   ~~(II)~~   (II)    INFORMATION CONCERNING ANY LICENSE OR CERTIFICATION  
13 HELD BY THE APPLICANT UNDER THE HEALTH OCCUPATIONS ARTICLE OR UNDER  
14 THIS ARTICLE, INCLUDING THE PRIOR OR CURRENT OPERATION BY THE APPLICANT  
15 OF A HEALTH CARE FACILITY, RESIDENTIAL FACILITY, OR SIMILAR HEALTH CARE  
16 PROGRAM;

17                   ~~(III)~~   (II)    INFORMATION DEMONSTRATING THE FINANCIAL AND  
18 ADMINISTRATIVE ABILITY OF THE APPLICANT TO OPERATE AN ASSISTED LIVING  
19 PROGRAM IN COMPLIANCE WITH THIS SUBTITLE;

20                   ~~(IV)~~   (III)   THE POLICIES AND PROCEDURES TO BE IMPLEMENTED  
21 BY THE ASSISTED LIVING PROGRAM;

22                   ~~(V)~~   (IV)   IDENTIFICATION OF THE PERSONNEL AND RELIEF  
23 PERSONNEL TO BE EMPLOYED BY THE ASSISTED LIVING PROGRAM; AND

24                   ~~(VI)~~   (V)    ANY OTHER INFORMATION THAT IS RELEVANT TO THE  
25 ABILITY OF THE APPLICANT TO CARE FOR THE RESIDENTS OF THE ASSISTED LIVING  
26 PROGRAM.

27   (C)    (1)    THE SECRETARY SHALL:

28                   (I)    REVIEW THE APPLICATION AND INFORMATION RECEIVED  
29 UNDER SUBSECTION (B) OF THIS SECTION; AND

30                   (II)   CONDUCT AN INDEPENDENT INVESTIGATION OF THE ASSISTED  
31 LIVING PROGRAM APPLYING FOR INITIAL LICENSURE.

32           (2)    BASED ON THE REVIEW AND INVESTIGATION CONDUCTED UNDER  
33 PARAGRAPH (1) OF THIS SUBSECTION, THE SECRETARY SHALL:

34                   (I)    AUTHORIZE THE UNCONDITIONAL APPROVAL OF THE  
35 APPLICATION;

1 (II) AUTHORIZE THE CONDITIONAL APPROVAL OF THE  
2 APPLICATION; OR

3 (III) DENY THE APPLICATION.

4 (D) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, AN  
5 ASSISTED LIVING PROGRAM LICENSE IS VALID FOR 2 YEARS.

6 (2) THE SECRETARY MAY ISSUE AN INITIAL PROBATIONARY LICENSE  
7 THAT IS VALID FOR LESS THAN 2 YEARS.

8 SECTION 2. AND BE IT FURTHER ENACTED, That:

9 (a) (1) The Department of Health and Mental Hygiene, in consultation with  
10 a geriatrician, a gerontologist, an expert in ~~Alzheimer's Disease~~ dementia, an expert  
11 in mental illness, representatives from the Board of Nursing, consumers, advocates,  
12 the assisted living industry, and other interested stakeholders, shall develop a  
13 methodology based on resident need from criteria in the Resident Assessment Tool to  
14 determine when awake overnight staff and on-site nursing should not be required in  
15 an assisted living program; ~~and~~

16 (2) Nothing in this subsection shall prevent the Department of Health  
17 and Mental Hygiene from adopting regulations regarding on-site nursing or awake  
18 overnight staff based on criteria other than the methodology developed under  
19 paragraph (1) of this subsection; and

20 (3) The Department of Health and Mental Hygiene shall adopt  
21 regulations as appropriate to implement recommendations developed under this  
22 subsection.

23 (b) The Department of Health and Mental Hygiene shall submit an interim  
24 report on or before ~~September 1~~ June 30, 2006, and a final report on or before  
25 December 1, 2006, ~~shall report~~ to the Senate Finance Committee and the House  
26 Health and Government Operations Committee in accordance with § 2-1246 of the  
27 State Government Article on the development of the methodology required under  
28 subsection (a) of this section.

29 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
30 June 1, 2006.