

HOUSE BILL 972

J3
HB 327/06 – HGO

71r2426

By: **Delegates Love, Dwyer, and Hecht**
Introduced and read first time: February 9, 2007
Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Nursing Facilities – Electronic Monitoring**

3 FOR the purpose of requiring certain nursing facilities to install and use electronic
4 monitoring devices in resident rooms and certain common areas for a certain
5 purpose; requiring the nursing facility to post a certain notice in a conspicuous
6 location; requiring the area in the nursing facility that receives the signals from
7 the electronic monitoring devices to meet certain criteria; requiring that certain
8 nursing facilities retain certain recordings for a certain period of time and, at
9 the request of certain residents and legal representatives, provide certain
10 residents and legal representatives with access to certain recordings; providing
11 that the electronic monitoring of residents shall be noncompulsory and with the
12 written permission of certain persons and funded by the nursing facility;
13 requiring the nursing facility to develop and implement certain policies related
14 to the privacy rights of certain residents and visitors; prohibiting a nursing
15 facility from refusing residency of certain persons and from removing certain
16 residents because of a refusal to accept electronic monitoring; requiring the
17 administrator of a nursing facility to maintain certain records; establishing
18 certain penalties; requiring that videotapes created from video camera
19 monitoring be admissible in criminal and civil actions brought in Maryland
20 courts, subject to the Maryland Rules of Evidence; defining a certain term;
21 providing for the application of this Act; and generally relating to electronic
22 monitoring of nursing facilities.

23 BY repealing and reenacting, without amendments,
24 Article – Health – General
25 Section 19–301(o)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2005 Replacement Volume and 2006 Supplement)

3 BY adding to
4 Article – Health – General
5 Section 19–343.1
6 Annotated Code of Maryland
7 (2005 Replacement Volume and 2006 Supplement)

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

10 **Article – Health – General**

11 19–301.

12 (o) (1) “Related institution” means an organized institution, environment,
13 or home that:

14 (i) Maintains conditions or facilities and equipment to provide
15 domiciliary, personal, or nursing care for 2 or more unrelated individuals who are
16 dependent on the administrator, operator, or proprietor for nursing care or the
17 subsistence of daily living in a safe, sanitary, and healthful environment; and

18 (ii) Admits or retains the individuals for overnight care.

19 (2) “Related institution” does not include a nursing facility or visiting
20 nurse service that is conducted only by or for adherents of a bona fide church or
21 religious organization, in accordance with tenets and practices that include reliance on
22 treatment by spiritual means alone for healing.

23 **19–343.1.**

24 (A) **IN THIS SECTION, “ELECTRONIC MONITORING DEVICE” INCLUDES A**
25 **VIDEO SURVEILLANCE CAMERA AND AN AUDIO DEVICE.**

26 (B) **THIS SECTION APPLIES TO RELATED INSTITUTIONS THAT HAVE:**

27 (1) **A PATIENT POPULATION OF 50 OR MORE; AND**

28 (2) **A NURSING ASSISTANT STAFF WITH A RATIO OF MORE THAN**
29 **TWO PATIENTS TO ONE NURSING ASSISTANT.**

1 **(C) (1) A RELATED INSTITUTION SHALL INSTALL AND USE**
2 **ELECTRONIC MONITORING DEVICES TO MONITOR THE SAFETY OF RESIDENTS,**
3 **INCLUDING RESIDENTS MOST AT RISK OF FALLING AND SUSTAINING INJURIES,**
4 **IN:**

5 **(I) RESIDENT ROOMS; AND**

6 **(II) COMMON AREAS, INCLUDING HALLWAYS AND DINING,**
7 **LIVING, VISITING, AND STAFF AREAS.**

8 **(2) THE RELATED INSTITUTION SHALL POST A NOTICE IN A**
9 **CONSPICUOUS LOCATION THAT STATES THAT ROOMS OF RESIDENTS ARE BEING**
10 **MONITORED BY AN ELECTRONIC MONITORING DEVICE.**

11 **(3) THE AREA IN THE RELATED INSTITUTION THAT RECEIVES THE**
12 **SIGNALS FROM THE ELECTRONIC MONITORING DEVICES SHALL:**

13 **(I) BE STAFFED 24 HOURS PER DAY;**

14 **(II) BE OUT OF THE VIEW AND HEARING OF VISITORS AND**
15 **RESIDENTS OF THE RELATED INSTITUTION; AND**

16 **(III) HAVE A COMMUNICATION SYSTEM THAT IMMEDIATELY**
17 **NOTIFIES THE APPROPRIATE STAFF OF A MONITORED RESIDENT'S NEED FOR**
18 **ASSISTANCE.**

19 **(4) A RELATED INSTITUTION SHALL:**

20 **(I) RETAIN RECORDINGS MADE BY ELECTRONIC**
21 **MONITORING DEVICES UNDER THIS SECTION FOR AT LEAST 30 DAYS FROM THE**
22 **DATE OF THE RECORDING; AND**

23 **(II) AT THE REQUEST OF A RESIDENT OR LEGAL**
24 **REPRESENTATIVE OF A RESIDENT, PROVIDE THE RESIDENT OR LEGAL**
25 **REPRESENTATIVE ACCESS TO THE RELEVANT RECORDINGS.**

26 **(5) ELECTRONIC MONITORING CONDUCTED UNDER THIS SECTION**
27 **SHALL:**

1 (I) **BE NONCOMPULSORY AND WITH THE WRITTEN**
2 **PERMISSION OF THE RESIDENT OR LEGAL REPRESENTATIVE OF THE RESIDENT;**
3 **AND**

4 (II) **BE FUNDED BY THE RELATED INSTITUTION.**

5 (6) **A RELATED INSTITUTION SHALL DEVELOP AND IMPLEMENT**
6 **POLICIES REGARDING THE PROTECTION OF PRIVACY RIGHTS OF RESIDENTS**
7 **THAT ELECT NOT TO BE MONITORED AND OF VISITORS TO THE RELATED**
8 **INSTITUTION.**

9 (7) **A RELATED INSTITUTION MAY NOT REFUSE TO ADMIT AN**
10 **INDIVIDUAL TO RESIDENCY IN THE RELATED INSTITUTION OR REMOVE A**
11 **RESIDENT FROM THE RELATED INSTITUTION BECAUSE OF A REFUSAL TO**
12 **ACCEPT ELECTRONIC MONITORING.**

13 (D) **THE ADMINISTRATOR OF A RELATED INSTITUTION SHALL MAINTAIN**
14 **RECORDS OF THE FOLLOWING ORIGINAL DOCUMENTS:**

15 (1) **THE WRITTEN RECORD OF A RESIDENT'S DECISION TO**
16 **ACCEPT OR REFUSE ELECTRONIC MONITORING; AND**

17 (2) **THE WRITTEN RECORD OF A RESIDENT'S DECISION TO**
18 **RESCIND THE RESIDENT'S ORIGINAL ACCEPTANCE OR REFUSAL OF ELECTRONIC**
19 **MONITORING.**

20 (E) **SUBJECT TO THE MARYLAND RULES OF EVIDENCE, A TAPE**
21 **CREATED THROUGH THE USE OF ELECTRONIC MONITORING SHALL BE**
22 **ADMISSIBLE IN EITHER A CIVIL OR CRIMINAL ACTION BROUGHT IN A MARYLAND**
23 **COURT.**

24 (F) (1) **A PERSON WHO OPERATES A RELATED INSTITUTION IN**
25 **VIOLATION OF THE PROVISIONS OF THIS SECTION IS GUILTY OF A**
26 **MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING**
27 **\$2,000 OR IMPRISONMENT NOT EXCEEDING 5 YEARS OR BOTH.**

28 (2) **A PERSON WHO WILLFULLY AND WITHOUT CONSENT OF THE**
29 **RELATED INSTITUTION HAMPERS, OBSTRUCTS, TAMPERS WITH, OR DESTROYS**

1 AN ELECTRONIC MONITORING DEVICE OR TAPE SHALL BE GUILTY OF A
2 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING
3 **\$2,000 OR IMPRISONMENT NOT EXCEEDING 90 DAYS OR BOTH.**

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2007.