

CHAPTER 71

(Senate Bill 471)

AN ACT concerning

~~Assisted Living Managers – Certification Requirement~~
State Board of Examiners of Nursing Home Administrators – Composition
and Executive Director

FOR the purpose of ~~establishing a certification process for assisted living managers; requiring the Department of Health and Mental Hygiene to require that assisted living managers be certified; renaming the Board of Nursing Home Administrators to be the Board of Nursing Home Administrators and Assisted Living Managers; altering the composition of the Board~~ State Board of Examiners of Nursing Home Administrators; altering the appointment process and qualifications for the executive director of the Board; ~~requiring that certain individuals be certified by the Board before practicing as assisted living managers in the State; establishing certain qualification requirements for obtaining a certain certificate; providing a certain exemption for certain experience and training requirements; establishing certain application fees and requirements for obtaining a certificate; requiring the Board to keep a certain file on certain applications for certificates; establishing certain terms and procedures for the renewal and reinstatement of a certificate; establishing certain terms and conditions for an inactive certificate; prohibiting a certificate holder from surrendering a certificate under certain circumstances; authorizing the Board to deny a certificate to an applicant, reprimand a certificate holder, place a certificate holder on probation, or suspend or revoke a certificate under certain circumstances; providing for certain criminal and civil penalties; establishing certain hearing and appeal procedures for certificate holders; providing for certain vacancies on the Board; defining certain terms; providing for the application of certain provisions of this Act; and generally relating to certification requirements for assisted living managers~~ the State Board of Examiners of Nursing Home Administrators.

~~BY renumbering~~

~~Article – Health Occupations~~

~~Section 9-317~~

~~to be Section 9-208~~

~~Annotated Code of Maryland~~

~~(2005 Replacement Volume and 2008 Supplement)~~

~~BY repealing and reenacting, without amendments,~~

~~Article – Health – General~~

~~Section 19-1801 and 19-1807~~

~~Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)~~

~~BY repealing and reenacting, with amendments,
Article — Health — General
Section 19 — 1805(a)
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)~~

BY repealing and reenacting, with amendments,
Article – Health Occupations
Section ~~9 – 101, 9 – 201 through 9 – 203, 9 – 315 through 9 – 316.1, 9 – 401 through 9 – 403, and 9 – 501 to be under the amended title “Title 9. Nursing Home Administrators and Assisted Living Managers”~~ 9–202 and 9–203
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)

~~BY repealing and reenacting, without amendments,
Article — Health Occupations
Section 9 – 102, 9 – 407, and 9 – 502
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)~~

~~BY repealing and reenacting, with amendments,
Article — Health Occupations
Section 9 – 208
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)
(As enacted by Section 1 of this Act)~~

~~BY adding to
Article — Health Occupations
Section 9 – 3A – 01 through 9 – 3A – 15 to be under the new subtitle “Subtitle 3A. Certification of Assisted Living Managers”
Annotated Code of Maryland
(2005 Replacement Volume and 2008 Supplement)~~

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That ~~Section(s) 9 – 317 of Article — Health Occupations of the Annotated Code of Maryland be renumbered to be Section(s) 9 – 208.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That~~ the Laws of Maryland read as follows:

~~**Article — Health — General**~~

~~19-1801.~~

~~In this subtitle:~~

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

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

- ~~(i) A nursing home, as defined under § 19-301 of this title;~~
- ~~(ii) A State facility, as defined under § 10-101 of this article;~~
- ~~(iii) A program licensed by the Department under Title 7 or Title 10 of this article;~~
- ~~(iv) A hospice care program regulated by the Department under Subtitle 9 of this title;~~
- ~~(v) Services provided by family members;~~
- ~~(vi) Services provided in an individual's own home; or~~
- ~~(vii) A program certified by the Department of Human Resources under Title 6, Subtitle 5, Part II of the Human Services Article as a certified Adult Residential Environment Program.~~

~~19-1805.~~

~~(a) The Department shall:~~

- ~~(1) Define different levels of assisted living according to the level of care provided;~~
- ~~(2) Require all assisted living programs to be licensed to operate according to the level of the program;~~
- ~~(3) Develop a waiver process for authorizing an assisted living program to continue to care for an individual whose medical or functional condition has changed since admission to the program to an extent that the level of care required by the individual exceeds the level of care for which the program is licensed;~~

~~(4) Promote affordable and accessible assisted living programs throughout the State;~~

~~(5) Establish and enforce quality standards for assisted living programs;~~

~~(6) Require periodic inspections of assisted living program facilities, including at least an annual unannounced on-site inspection;~~

~~(7) Establish requirements for the qualifications or training or both of assisted living program employees **INCLUDING THAT ASSISTED LIVING MANAGERS BE CERTIFIED UNDER TITLE 9, SUBTITLE 3A OF THE HEALTH OCCUPATIONS ARTICLE;**~~

~~(8) Establish a "resident bill of rights" for residents of assisted living program facilities; and~~

~~(9) Define which, if any, assisted living programs may be exempt from the requirements of § 19-311 of this title.~~

~~19-1807.~~

~~(a) (1) Except as provided in subsection (d) of this section, by January 1, 2006, an assisted living manager who is employed by an assisted living program that is licensed for 5 or more beds shall have completed a manager training course that is approved by the Department and includes an examination.~~

~~(2) The manager training course shall:~~

~~(i) Consist of at least 80 hours;~~

~~(ii) Require attendance or participation at training programs that provide for direct interaction between faculty and participants; and~~

~~(iii) Authorize a maximum of 25 hours of training through Internet courses, correspondence courses, tapes, or other training methods that do not require direct interaction between faculty and participants.~~

~~(b) An assisted living manager employed in a program that is licensed for 5 or more beds shall be required to complete 20 hours of Department approved continuing education every 2 years.~~

~~(c) In addition to the sanctions specified in COMAR 10.07.14.48, an assisted living program that fails to employ an assisted living manager who meets the requirements of this section may be subject to a civil money penalty not to exceed \$10,000.~~

~~(d) (1) The requirements of subsection (a) of this section do not apply to an individual who:~~

~~(i) Is employed by an assisted living program and has enrolled in a Department approved manager training course that the individual expects to complete within 6 months;~~

~~(ii) Except as provided in paragraph (3) of this subsection, is temporarily serving as an assisted living manager, for no longer than 45 days, due to an assisted living manager leaving employment and prior to the hiring of a permanent assisted living manager; or~~

~~(iii) Subject to paragraph (2) of this subsection:~~

~~1. Has been employed as an assisted living manager in the State for 1 year prior to January 1, 2006; or~~

~~2. Is licensed as a nursing home administrator in the State.~~

~~(2) The Department may require an individual who is exempt under paragraph (1)(iii) of this subsection to complete a manager training course and examination if the Department finds that the assisted living manager repeatedly has violated State law or regulations on assisted living and that those violations have caused actual physical or emotional harm to a resident.~~

~~(3) An assisted living program may request an extension from the Department to allow an individual to serve as an assisted living manager for longer than 45 days if the assisted living program has shown good cause for the extension.~~

~~(e) The Department shall ensure that manager training courses approved by the Department are affordable and accessible to assisted living programs and to individuals seeking to enroll in the courses.~~

Article - Health Occupations

~~Title 9. Nursing Home Administrators AND ASSISTED LIVING MANAGERS.~~

~~9-101.~~

~~(a) In this title the following words have the meanings indicated.~~

~~(b) "ASSISTED LIVING MANAGER" MEANS AN INDIVIDUAL EMPLOYED TO OVERSEE THE DAY TO DAY OPERATION OF AN ASSISTED LIVING PROGRAM~~

~~LICENSED IN ACCORDANCE WITH TITLE 19, SUBTITLE 18 OF THE HEALTH
GENERAL ARTICLE.~~

~~(C) "ASSISTED LIVING PROGRAM" HAS THE MEANING STATED IN §
19-1801 OF THE HEALTH GENERAL ARTICLE.~~

~~[(b)] (D) "Board" means the State Board of Examiners of Nursing Home
Administrators AND ASSISTED LIVING MANAGERS.~~

~~(E) "CERTIFICATE" MEANS, UNLESS THE CONTEXT REQUIRES
OTHERWISE, A CERTIFICATE ISSUED BY THE BOARD TO PRACTICE AS AN
ASSISTED LIVING MANAGER.~~

~~(F) "CERTIFIED ASSISTED LIVING MANAGER" MEANS, UNLESS THE
CONTEXT REQUIRES OTHERWISE, AN INDIVIDUAL WHO IS CERTIFIED BY THE
BOARD TO PRACTICE AS AN ASSISTED LIVING MANAGER.~~

~~[(e)] (G) "License" means, unless the context requires otherwise, a license
issued by the Board to practice as a nursing home administrator.~~

~~[(d)] (H) "Licensed nursing home administrator" means, unless the context
requires otherwise, an individual who is licensed by the Board to practice as a nursing
home administrator.~~

~~[(e)] (I) "Nursing home" means an institution or part of an institution that:~~

~~(1) Is a "skilled nursing facility" or an "intermediate care facility" as
those terms are defined by federal law and participates in a program under Title XVIII
or Title XIX of the Social Security Act; or~~

~~(2) If it is licensed only by this State, otherwise meets the federal
requirements for a "skilled nursing facility" or an "intermediate care facility" as those
terms are defined by federal law.~~

~~[(f)] (J) "Nursing home administrator" means an individual who
administers, manages, or is in general administrative charge of a nursing home
whether or not the individual:~~

~~(1) Has an ownership interest in the nursing home; or~~

~~(2) Shares duties and functions with other individuals.~~

~~This title does not limit the right of an individual to practice a health occupation that the individual is authorized to practice under this article.~~

~~9-201.~~

~~There is a State Board of Examiners of Nursing Home Administrators AND ASSISTED LIVING MANAGERS in the Department.~~

9-202.

(a) (1) The Board consists of ~~11~~ **13** members.

(2) Of the ~~11~~ **13** Board members:

(i) [Five] ~~THREE~~ **SIX** members shall be licensed nursing home administrators who are practicing actively and have at least 5 years experience as licensed nursing home administrators, **ONE OF WHOM HAS EXPERIENCE WITH THE EDEN ALTERNATIVE GREEN HOUSE OR A SIMILAR PROGRAM, IF PRACTICABLE;**

(ii) Two shall be individuals who are not nursing home administrators but who are engaged actively in professions that are concerned with the care of chronically ill, infirm, or aged individuals; ~~and] CERTIFIED ASSISTED LIVING MANAGERS;~~

(III) ONE SHALL BE A PHYSICIAN OR A NURSE PRACTITIONER WHO SPECIALIZES IN GERIATRICS;

~~(IV) ONE SHALL BE A GERIATRIC NURSE PRACTITIONER;~~

~~(V) (IV) ONE SHALL BE A GERIATRIC SOCIAL WORKER; AND~~

~~(VI) ONE SHALL BE A PHARMACIST; AND~~

[(iii)] ~~(VII) (V)~~ **(V) [Four] TWO** shall be consumer members.

(3) Not more than two members may be officials or full-time employees of this State or of any of its political subdivisions.

(4) A REPRESENTATIVE OF THE OFFICE OF HEALTH CARE QUALITY SHALL SERVE AS AN EX OFFICIO MEMBER.

(b) (1) The Governor shall appoint the consumer members with the advice of the Secretary and the advice and consent of the Senate.

(2) (i) Except for the consumer members, the Governor shall appoint each Board member, with the advice of the Secretary.

(ii) The Secretary shall make each recommendation after consulting with the associations and societies appropriate to the disciplines and professions representative of the vacancy to be filled.

(c) Each Board member shall:

(1) Be a United States citizen or have declared an intent to become a United States citizen; and

(2) Have resided in this State for at least 1 year before appointment to the Board.

(d) (1) Each consumer member of the Board:

[(1)] (I) Shall be a member of the general public;

[(2)] (II) May not be or ever have been a nursing home administrator or in training to become a nursing home administrator;

[(3)] (III) May not have a household member who is a nursing home administrator or in training to become a nursing home administrator;

[(4)] (IV) May not participate or ever have participated in a commercial or professional field related to the practice of a nursing home administrator;

[(5)] (V) May not have a household member who participates in a commercial or professional field related to the practice of a nursing home administrator; and

[(6)] (VI) May not have had within 2 years before appointment a substantial financial interest in a person regulated by the Board.

(2) ~~(1)~~ **ONE CONSUMER MEMBER SHALL HAVE PRESENTLY OR HAVE HAD A FAMILY MEMBER LIVING IN A NURSING HOME.**

~~(1) **ONE CONSUMER MEMBER SHALL HAVE PRESENTLY OR HAVE HAD A FAMILY MEMBER LIVING IN AN ASSISTED LIVING FACILITY.**~~

(e) While a member of the Board, a consumer member may not have a substantial financial interest in a person regulated by the Board.

(f) Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the State Constitution.

(g) (1) The term of a member is 4 years.

(2) The terms of members are staggered as required by the terms provided for members of the Board on July 1, 1981.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(5) A member may not serve more than 2 consecutive full terms.

(6) To the extent practicable, the Governor shall fill any vacancy on the Board within 60 days of the date of the vacancy.

(h) (1) The Governor may remove a member for incompetence, misconduct, incapacity, or neglect of duty.

(2) Upon the recommendation of the Secretary, the Governor may remove a member whom the Secretary finds to have been absent from 2 successive Board meetings without adequate reason.

9-203.

(a) From among the Board members, the Governor shall appoint a chairman and vice chairman of the Board.

(b) (1) [With the consent of the Board, the] **THE** Board [chairman] shall appoint **AND THE SECRETARY SHALL CONFIRM** the Board executive director.

(2) The Board executive director may not be a member of the Board and serves at the pleasure of the Board.

(3) The Board executive director is the executive officer of the Board.

(4) **THE BOARD EXECUTIVE DIRECTOR SHALL HAVE, AT A MINIMUM, A BACHELOR'S DEGREE.**

(c) The Board shall determine the duties of each officer.

~~9-208.~~

~~(a) In this section, [“nursing home administrator rehabilitation committee”] “REHABILITATION COMMITTEE” means a committee that:~~

- ~~(1) Is defined in subsection (b) of this section; and~~
- ~~(2) Performs any of the functions listed in subsection (d) of this section.~~

~~(b) For purposes of this section, a [nursing home administrator] rehabilitation committee is a committee of the Board or a committee of any association representing nursing home administrators OR ASSISTED LIVING MANAGERS that:~~

- ~~(1) Is recognized by the Board; and~~
- ~~(2) Includes but is not limited to nursing home administrators AND ASSISTED LIVING MANAGERS.~~

~~(c) A rehabilitation committee of the Board or recognized by the Board may function:~~

- ~~(1) Solely for the Board; or~~
- ~~(2) Jointly with a rehabilitation committee representing another board or boards.~~

~~(d) For purposes of this section, a [nursing home administrator] rehabilitation committee evaluates and provides assistance to any [nursing home administrator, and any other] individual regulated by the Board, in need of treatment and rehabilitation for alcoholism, drug abuse, chemical dependency, or other physical, emotional, or mental condition.~~

~~(e) (1) Except as otherwise provided in this subsection, the proceedings, records, and files of the [nursing home administrator] rehabilitation committee are not discoverable and are not admissible in evidence in any civil action arising out of matters that are being or have been reviewed and evaluated by the [nursing home administrator] rehabilitation committee.~~

~~(2) Paragraph (1) of this subsection does not apply to any record or document that is considered by the [nursing home administrator] rehabilitation committee and that otherwise would be subject to discovery or introduction into evidence in a civil action.~~

~~(3) For purposes of this subsection, civil action does not include a proceeding before the Board or judicial review of a proceeding before the Board.~~

~~(f) A person who acts in good faith and within the scope of jurisdiction of a [nursing home administrator] rehabilitation committee is not civilly liable for any action as a member of the [nursing home administrator] rehabilitation committee or for giving information to, participating in, or contributing to the function of the [nursing home administrator] rehabilitation committee.~~

~~9-315.~~

~~(a) Except as otherwise provided in the Administrative Procedure Act, before the Board takes any action under § 9-314 of this subtitle OR § 9-3A-12 OF THIS TITLE, it shall give the individual against whom the action is contemplated an opportunity for a hearing before the Board.~~

~~(b) The Board shall give notice and hold the hearing in accordance with the Administrative Procedure Act.~~

~~(c) Over the signature of an officer or the executive director of the Board, the Board may issue subpoenas and administer oaths in connection with any investigation under this title and any hearings or proceedings before it.~~

~~(d) If, without lawful excuse, a person disobeys a subpoena from the Board or an order by the Board to take an oath or to testify or answer a question, then, on petition of the Board, a court of competent jurisdiction may punish the person as for contempt of court.~~

~~(e) If after due notice the individual against whom the action is contemplated fails or refuses to appear, nevertheless the Board may hear and determine the matter.~~

~~9-316.~~

~~(a) Except as provided in this section for an action under § 9-314 of this subtitle OR § 9-3A-12 OF THIS TITLE, any person aggrieved by a final decision of the Board in a contested case, as defined in the Administrative Procedure Act, may:~~

~~(1) Appeal that decision to the Board of Review; and~~

~~(2) Then take any further appeal allowed by the Administrative Procedure Act.~~

~~(b) (1) Any person aggrieved by a final decision of the Board under § 9-314 of this subtitle OR § 9-3A-12 OF THIS TITLE may not appeal to the Secretary or Board of Review but may take a direct judicial appeal.~~

~~(2) The appeal shall be made as provided for judicial review of final decisions in the Administrative Procedure Act.~~

~~(c) An order of the Board may not be stayed pending judicial review.~~

~~9-316.1~~

~~(a) The Board may issue a cease and desist order for practicing nursing home administration without a license or with an unauthorized person or for supervising or aiding an unauthorized person in the practice of nursing home administration.~~

~~(b) (1) An action for aiding and abetting may be maintained in the name of the State or the Board to enjoin:~~

~~(i) The unauthorized practice of nursing home administration;~~
or

~~(ii) Conduct that is a ground for disciplinary action under § 9-314 of this subtitle OR § 9-3A-12 OF THIS TITLE.~~

~~(2) An action under this section may be brought by:~~

~~(i) The Board, in its own name;~~

~~(ii) The Attorney General, in the name of the State; or~~

~~(iii) A State's Attorney, in the name of the State.~~

~~(3) An action under this section shall be brought in the county where the defendant resides or engages in the acts sought to be enjoined.~~

~~(4) Proof of actual damage or that any person will sustain any damage if an injunction is not granted is not required for an action under this section.~~

~~(5) An action under this section is in addition to and not instead of criminal prosecution for the unauthorized practice of nursing home administration OR ASSISTED LIVING MANAGEMENT under § 9-401 of this title or disciplinary action under § 9-314 of this subtitle OR § 9-3A-12 OF THIS TITLE.~~

~~**SUBTITLE 3A. CERTIFICATION OF ASSISTED LIVING MANAGERS.**~~

~~**9-3A-01.**~~

~~**EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, AN INDIVIDUAL SHALL BE CERTIFIED BY THE BOARD BEFORE THE INDIVIDUAL MAY PRACTICE AS AN ASSISTED LIVING MANAGER IN THIS STATE.**~~

~~9-3A-02.~~

~~(A) TO QUALIFY FOR A CERTIFICATE, AN APPLICANT SHALL:~~

~~(1) BE AN INDIVIDUAL WHO MEETS THE REQUIREMENTS OF THIS SECTION;~~

~~(2) BE OF GOOD MORAL CHARACTER; AND~~

~~(3) BE AT LEAST 21 YEARS OLD.~~

~~(B) THE APPLICANT SHALL HAVE:~~

~~(1) (I) A HIGH SCHOOL DIPLOMA;~~

~~(II) A HIGH SCHOOL EQUIVALENCY DIPLOMA; OR~~

~~(III) OTHER APPROPRIATE EDUCATION AS DETERMINED BY THE BOARD;~~

~~(2) APPROPRIATE EXPERIENCE AS DETERMINED BY THE BOARD;~~

~~(3) COMPLETED A MANAGER TRAINING COURSE AND SUCCESSFULLY PASSED AN EXAMINATION AS REQUIRED BY § 19-1807 OF THE HEALTH GENERAL ARTICLE; AND~~

~~(4) MET ANY ADDITIONAL REQUIREMENTS ESTABLISHED BY THE BOARD.~~

~~(C) THE BOARD MAY ESTABLISH DIFFERENT APPLICANT REQUIREMENTS FOR THE DIFFERENT LEVELS OF CARE DEFINED IN ACCORDANCE WITH § 19-805(A)(1) OF THE HEALTH GENERAL ARTICLE OR FOR FACILITIES LICENSED FOR DIFFERENT NUMBERS OF BEDS.~~

~~(D) THE BOARD MAY WAIVE THE EXPERIENCE AND TRAINING REQUIREMENTS UNDER THIS SECTION IN ACCORDANCE WITH § 19-1807(D) OF THE HEALTH GENERAL ARTICLE.~~

~~9-3A-03.~~

~~TO APPLY FOR A CERTIFICATE, AN APPLICANT SHALL:~~

~~(1) SUBMIT AN APPLICATION TO THE BOARD ON THE FORM THAT THE BOARD REQUIRES; AND~~

~~(2) PAY TO THE BOARD THE APPLICATION FEE SET BY THE BOARD.~~

~~9-3A-04.~~

~~(A) THE BOARD SHALL KEEP A FILE OF EACH APPLICATION FOR A CERTIFICATE MADE UNDER THIS SUBTITLE.~~

~~(B) THE FILE SHALL CONTAIN:~~

~~(1) THE NAME, ADDRESS, AND AGE OF THE APPLICANT;~~

~~(2) THE NAME AND ADDRESS OF THE EMPLOYER OR BUSINESS CONNECTION OF THE APPLICANT;~~

~~(3) THE DATE OF THE APPLICATION;~~

~~(4) COMPLETE AND CURRENT INFORMATION ON THE EDUCATIONAL, TRAINING, AND EXPERIENCE QUALIFICATIONS OF THE APPLICANT;~~

~~(5) THE DATE THE BOARD REVIEWED AND ACTED ON THE APPLICATION;~~

~~(6) THE ACTION TAKEN BY THE BOARD ON THE APPLICATION;~~

~~(7) THE IDENTIFYING NUMBERS OF ANY CERTIFICATE OR RENEWAL CERTIFICATE ISSUED TO THE APPLICANT; AND~~

~~(8) ANY OTHER INFORMATION THAT THE BOARD CONSIDERS NECESSARY.~~

~~(C) THE APPLICATION FILES SHALL BE OPEN TO PUBLIC INSPECTION.~~

~~9-3A-05.~~

~~THE BOARD SHALL ISSUE A CERTIFICATE TO ANY APPLICANT WHO MEETS THE REQUIREMENTS OF THIS SUBTITLE.~~

~~9-3A-06.~~

~~THE APPLICANT MAY APPEAL A DECISION OF THE BOARD THAT RELATES TO ISSUING OR RENEWING A CERTIFICATE TO THE BOARD OF REVIEW AS PROVIDED IN § 9-316 OF THIS TITLE.~~

~~9-3A-07.~~

~~A CERTIFICATE AUTHORIZES THE CERTIFICATE HOLDER TO PRACTICE AS AN ASSISTED LIVING MANAGER WHILE THE CERTIFICATE IS EFFECTIVE.~~

~~9-3A-08.~~

~~(A) A CERTIFICATE EXPIRES ON THE SECOND ANNIVERSARY OF ITS EFFECTIVE DATE, UNLESS THE CERTIFICATE IS RENEWED FOR A 2-YEAR TERM AS PROVIDED IN THIS SECTION.~~

~~(B) AT LEAST 1 MONTH BEFORE THE CERTIFICATE EXPIRES, THE BOARD SHALL SEND TO THE CERTIFICATE HOLDER, BY FIRST CLASS MAIL TO THE LAST KNOWN ADDRESS OF THE CERTIFICATE HOLDER, A RENEWAL NOTICE THAT STATES:~~

~~(1) THE DATE ON WHICH THE CURRENT CERTIFICATE EXPIRES;~~

~~(2) THE DATE BY WHICH THE RENEWAL APPLICATION MUST BE RECEIVED BY THE BOARD FOR THE RENEWAL TO BE ISSUED AND MAILED BEFORE THE CERTIFICATE EXPIRES; AND~~

~~(3) THE AMOUNT OF THE RENEWAL FEE.~~

~~(C) BEFORE THE CERTIFICATE EXPIRES, THE CERTIFICATE HOLDER PERIODICALLY MAY RENEW IT FOR AN ADDITIONAL 2-YEAR TERM, IF THE CERTIFICATE HOLDER:~~

~~(1) OTHERWISE IS ENTITLED TO BE CERTIFIED;~~

~~(2) PAYS TO THE BOARD A RENEWAL FEE SET BY THE BOARD;~~
~~AND~~

~~(3) SUBMITS TO THE BOARD:~~

~~(i) A RENEWAL APPLICATION ON THE FORM THAT THE BOARD REQUIRES; AND~~

~~(H) SATISFACTORY EVIDENCE OF COMPLIANCE WITH ANY CONTINUING EDUCATION AND OTHER QUALIFICATIONS AND REQUIREMENTS SET UNDER THIS SECTION FOR CERTIFICATE RENEWAL.~~

~~(D) (1) IN ADDITION TO ANY OTHER QUALIFICATIONS AND REQUIREMENTS ESTABLISHED BY THE BOARD, THE BOARD MAY SET CONTINUING EDUCATION REQUIREMENTS AS A CONDITION TO THE RENEWAL OF CERTIFICATES UNDER THIS SECTION.~~

~~(2) IF A CONTINUING EDUCATION PROGRAM RELATES TO FEDERAL OR STATE REGULATION, POLICY AND PROCEDURES, OR LAW, THE BOARD, IN ITS SOLE DISCRETION, MAY GRANT A REQUEST FOR ACCREDITATION OF THE PROGRAM.~~

~~(E) THE BOARD SHALL RENEW THE CERTIFICATE OF EACH CERTIFICATE HOLDER WHO MEETS THE REQUIREMENTS OF THIS SECTION.~~

~~9-3A-09.~~

~~(A) THE BOARD SHALL REINSTATE THE CERTIFICATE OF AN ASSISTED LIVING MANAGER WHO HAS FAILED TO RENEW THE CERTIFICATE FOR ANY REASON, IF THE CERTIFICATE HOLDER:~~

~~(1) HAS NOT HAD THE CERTIFICATE SUSPENDED OR REVOKED;~~

~~(2) MEETS THE RENEWAL REQUIREMENTS OF § 9-3A-08 OF THIS SUBTITLE;~~

~~(3) PAYS TO THE BOARD THE REINSTATEMENT FEE SET BY THE BOARD;~~

~~(4) SUBMITS TO THE BOARD SATISFACTORY EVIDENCE OF COMPLIANCE WITH THE QUALIFICATIONS AND REQUIREMENTS ESTABLISHED UNDER THIS SUBTITLE FOR CERTIFICATE REINSTATEMENTS; AND~~

~~(5) APPLIES TO THE BOARD FOR REINSTATEMENT OF THE CERTIFICATE WITHIN 5 YEARS AFTER THE CERTIFICATE EXPIRES.~~

~~(B) THE BOARD MAY NOT REINSTATE THE CERTIFICATE OF AN ASSISTED LIVING MANAGER WHO FAILS TO APPLY FOR REINSTATEMENT OF THE CERTIFICATE WITHIN 5 YEARS AFTER THE CERTIFICATE EXPIRES, UNLESS THE ASSISTED LIVING MANAGER BECOMES CERTIFIED BY MEETING THE CURRENT REQUIREMENTS FOR OBTAINING A NEW CERTIFICATE UNDER THIS SUBTITLE.~~

~~9-3A-10.~~

~~(A) IF AN INDIVIDUAL HAS BEEN CERTIFIED BY THE BOARD TO PRACTICE AS AN ASSISTED LIVING MANAGER IN THE STATE IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SUBTITLE, THE INDIVIDUAL MAY BE CERTIFIED SUBSEQUENTLY AS AN ASSISTED LIVING MANAGER ON INACTIVE STATUS, RETAINING THE CERTIFICATE HOLDER'S ORIGINAL CERTIFICATE NUMBER.~~

~~(B) (1) THE BOARD SHALL PLACE A CERTIFICATE HOLDER ON INACTIVE STATUS IF THE CERTIFICATE HOLDER SUBMITS TO THE BOARD:~~

~~(I) AN APPLICATION FOR INACTIVE STATUS ON THE FORM REQUIRED BY THE BOARD; AND~~

~~(II) THE INACTIVE STATUS FEE SET BY THE BOARD.~~

~~(2) A CERTIFICATE HOLDER'S INACTIVE STATUS EXPIRES ON THE SECOND ANNIVERSARY OF ITS EFFECTIVE DATE, UNLESS THE CERTIFICATE HOLDER RENEWS THE INACTIVE STATUS FOR A 2-YEAR TERM AS PROVIDED IN THIS SECTION.~~

~~(3) THE BOARD SHALL PROVIDE A CERTIFICATE HOLDER WHO HAS COMPLIED WITH THE REQUIREMENTS OF PARAGRAPH (1) OF THIS SUBSECTION WITH WRITTEN NOTIFICATION OF:~~

~~(I) THE DATE THAT THE CERTIFICATE HOLDER'S INACTIVE STATUS BECOMES EFFECTIVE;~~

~~(II) THE DATE THAT THE CERTIFICATE HOLDER'S 2-YEAR TERM OF INACTIVE STATUS EXPIRES; AND~~

~~(III) THE CONSEQUENCES OF:~~

~~1. NOT RENEWING INACTIVE STATUS BEFORE EXPIRATION OF THE 2-YEAR TERM OF INACTIVE STATUS; AND~~

~~2. NOT RESUMING ACTIVE STATUS WITHIN THE 5-YEAR PERIOD OF INACTIVE STATUS, BEGINNING ON THE FIRST DAY OF INACTIVE STATUS.~~

~~(C) A CERTIFICATE HOLDER ON INACTIVE STATUS MAY NOT PRACTICE AS AN ASSISTED LIVING MANAGER IN THE STATE.~~

~~(D) THE BOARD SHALL ISSUE A CERTIFICATE TO A CERTIFICATE HOLDER WHO IS ON INACTIVE STATUS IF THE CERTIFICATE HOLDER:~~

~~(1) COMPLETES AN APPLICATION FORM FOR REACTIVATION OF A CERTIFICATE BEFORE EXPIRATION OF THE 2 YEAR TERM OF INACTIVE STATUS ON THE FORM REQUIRED BY THE BOARD;~~

~~(2) COMPLIES WITH THE RENEWAL REQUIREMENTS IN EFFECT AT THE TIME THE CERTIFICATE HOLDER SEEKS TO REACTIVATE THE LICENSE;~~

~~(3) MEETS THE CONTINUING EDUCATION REQUIREMENTS SET BY THE BOARD;~~

~~(4) HAS NOT PRACTICED AS AN ASSISTED LIVING MANAGER IN THE STATE WHILE ON INACTIVE STATUS;~~

~~(5) PAYS ALL APPROPRIATE FEES SET BY THE BOARD;~~

~~(6) HAS BEEN ON INACTIVE STATUS FOR LESS THAN 5 YEARS; AND~~

~~(7) IS OTHERWISE ENTITLED TO BE CERTIFIED.~~

~~(E) BEFORE THE BOARD MAY REACTIVATE THE CERTIFICATE OF AN INDIVIDUAL WHO HAS BEEN ON INACTIVE STATUS FOR 5 YEARS OR MORE, THE INDIVIDUAL SHALL:~~

~~(1) SUBMIT A NEW APPLICATION;~~

~~(2) PAY ALL APPROPRIATE FEES SET BY THE BOARD;~~

~~(3) COMPLETE A BOARD APPROVED MANAGER REFRESHER PROGRAM; AND~~

~~(4) PASS AN EXAMINATION APPROVED BY THE BOARD.~~

~~(F) AN ASSISTED LIVING MANAGER WHOSE INACTIVE CERTIFICATE EXPIRES BEFORE THE ASSISTED LIVING MANAGER RETURNS TO ACTIVE CERTIFICATION SHALL MEET THE REINSTATEMENT REQUIREMENTS OF § 9-3A-09 OF THIS SUBTITLE.~~

~~9-3A-11.~~

~~(A) UNLESS THE BOARD AGREES TO ACCEPT THE SURRENDER OF A CERTIFICATE, A CERTIFIED ASSISTED LIVING MANAGER MAY NOT SURRENDER THE CERTIFICATE NOR MAY THE CERTIFICATE LAPSE BY OPERATION OF LAW WHILE THE CERTIFICATE HOLDER IS UNDER INVESTIGATION OR WHILE CHARGES ARE PENDING AGAINST THE CERTIFICATE HOLDER.~~

~~(B) THE BOARD MAY SET CONDITIONS ON ITS AGREEMENT WITH THE ASSISTED LIVING MANAGER UNDER INVESTIGATION OR AGAINST WHOM CHARGES ARE PENDING TO ACCEPT SURRENDER OF CERTIFICATE.~~

~~9-3A-12.~~

~~(A) THE BOARD SHALL INVESTIGATE AND TAKE APPROPRIATE ACTION AS TO ANY COMPLAINT FILED WITH THE BOARD THAT ALLEGES THAT A CERTIFICATE HOLDER HAS FAILED TO MEET ANY STANDARD OF THE BOARD.~~

~~(B) SUBJECT TO THE HEARING PROVISIONS OF § 9-315 OF THIS TITLE, THE BOARD MAY DENY A CERTIFICATE TO ANY APPLICANT, REPRIMAND ANY CERTIFICATE HOLDER, PLACE ANY CERTIFICATE HOLDER ON PROBATION, SUSPEND OR REVOKE A CERTIFICATE, OR IMPOSE A CIVIL FINE IF THE APPLICANT OR CERTIFICATE HOLDER:~~

~~(1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO OBTAIN A CERTIFICATE FOR THE CERTIFICATE HOLDER OR FOR ANOTHER;~~

~~(2) FRAUDULENTLY OR DECEPTIVELY USES A CERTIFICATE;~~

~~(3) OTHERWISE FAILS TO MEET SUBSTANTIALLY THE STANDARDS OF PRACTICE ADOPTED BY THE BOARD;~~

~~(4) IS CONVICTED OF OR PLEADS GUILTY OR NOLO CONTENDERE TO A FELONY OR TO A CRIME INVOLVING MORAL TURPITUDE, WHETHER OR NOT ANY APPEAL OR OTHER PROCEEDING IS PENDING TO HAVE THE CONVICTION OR PLEA SET ASIDE;~~

~~(5) PROVIDES PROFESSIONAL SERVICES WHILE:~~

~~(I) UNDER THE INFLUENCE OF ALCOHOL; OR~~

~~(II) USING ANY NARCOTIC OR CONTROLLED DANGEROUS SUBSTANCE, AS DEFINED IN § 5-101 OF THE CRIMINAL LAW ARTICLE, OR OTHER DRUG THAT IS IN EXCESS OF THERAPEUTIC AMOUNTS OR WITHOUT VALID MEDICAL INDICATION;~~

~~(6) IS DISCIPLINED BY A LICENSING OR DISCIPLINARY AUTHORITY OF ANY OTHER STATE OR COUNTRY OR CONVICTED OR DISCIPLINED BY A COURT OF ANY STATE OR COUNTRY FOR AN ACT THAT WOULD BE GROUNDS FOR DISCIPLINARY ACTION UNDER THE BOARD'S DISCIPLINARY STATUTES;~~

~~(7) PRACTICES ASSISTED LIVING MANAGEMENT WITH AN UNAUTHORIZED PERSON OR SUPERVISES OR AIDS AN UNAUTHORIZED PERSON IN THE PRACTICE OF ASSISTED LIVING MANAGEMENT;~~

~~(8) WILLFULLY MAKES OR FILES A FALSE REPORT OR RECORD IN THE PRACTICE OF ASSISTED LIVING MANAGEMENT;~~

~~(9) WILLFULLY FAILS TO FILE OR RECORD ANY REPORT AS REQUIRED UNDER LAW, WILLFULLY IMPEDES OR OBSTRUCTS THE FILING OR RECORDING OF THE REPORT, OR INDUCES ANOTHER TO FAIL TO FILE OR RECORD THE REPORT;~~

~~(10) SUBMITS A FALSE STATEMENT TO COLLECT A FEE;~~

~~(11) COMMITS AN ACT OF UNPROFESSIONAL CONDUCT IN THE CERTIFICATE HOLDER'S PRACTICE AS AN ASSISTED LIVING MANAGER; OR~~

~~(12) REFUSES, WITHHOLDS FROM, DENIES, OR DISCRIMINATES AGAINST AN INDIVIDUAL WITH REGARD TO THE PROVISION OF PROFESSIONAL SERVICES FOR WHICH THE CERTIFICATE HOLDER IS CERTIFIED AND QUALIFIED TO RENDER BECAUSE THE INDIVIDUAL IS HIV POSITIVE.~~

~~9-3A-13.~~

~~(A) (1) IF, AFTER A HEARING UNDER § 9-315 OF THIS TITLE, THE BOARD FINDS THAT THERE ARE GROUNDS UNDER § 9-3A-12 OF THIS SUBTITLE TO REPRIMAND A CERTIFICATE HOLDER, PLACE A CERTIFICATE HOLDER ON PROBATION, OR SUSPEND OR REVOKE A CERTIFICATE, THE BOARD MAY IMPOSE A CIVIL FINE;~~

~~(I) INSTEAD OF SUSPENDING OR REVOKING THE CERTIFICATE; OR~~

~~(II) IN ADDITION TO PLACING THE CERTIFICATE HOLDER ON PROBATION OR SUSPENDING OR REVOKING THE CERTIFICATE.~~

~~(2) A CIVIL FINE IMPOSED UNDER THIS SUBSECTION MAY NOT EXCEED;~~

~~(I) \$1,000 FOR A FIRST VIOLATION; AND~~

~~(II) \$5,000 FOR ANY SUBSEQUENT VIOLATION OF THE SAME PROVISION.~~

~~(B) IF, AFTER DISCIPLINARY PROCEDURES HAVE BEEN BROUGHT AGAINST A CERTIFICATE HOLDER, THE CERTIFICATE HOLDER WAIVES THE RIGHT TO A HEARING REQUIRED UNDER THIS TITLE AND IF THE BOARD FINDS THAT THERE ARE GROUNDS UNDER § 9-3A-12 OF THIS SUBTITLE TO REPRIMAND THE CERTIFICATE HOLDER, PLACE THE CERTIFICATE HOLDER ON PROBATION, OR SUSPEND OR REVOKE A CERTIFICATE, THE BOARD, IN ADDITION TO REPRIMANDING THE CERTIFICATE HOLDER, PLACING THE CERTIFICATE HOLDER ON PROBATION, OR SUSPENDING OR REVOKING THE CERTIFICATE, MAY IMPOSE:~~

~~(1) A CIVIL FINE NOT EXCEEDING \$1,000 FOR A FIRST VIOLATION; AND~~

~~(2) A CIVIL FINE NOT EXCEEDING \$5,000 FOR ANY SUBSEQUENT VIOLATION OF THE SAME PROVISION.~~

~~(C) THE BOARD SHALL PAY ANY CIVIL FINE COLLECTED UNDER THIS SECTION INTO THE GENERAL FUND OF THE STATE.~~

~~9-3A-14.~~

~~(A) EXCEPT AS OTHERWISE PROVIDED IN THE ADMINISTRATIVE PROCEDURE ACT, BEFORE THE BOARD TAKES ANY ACTION UNDER § 9-3A-12 OF THIS SUBTITLE, IT SHALL GIVE THE INDIVIDUAL AGAINST WHOM THE ACTION IS CONTEMPLATED AN OPPORTUNITY FOR A HEARING BEFORE THE BOARD IN ACCORDANCE WITH § 9-315 OF THIS TITLE.~~

~~(B) ANY PERSON AGGRIEVED BY A FINAL DECISION OF THE BOARD UNDER § 9-3A-12 OF THIS SUBTITLE MAY APPEAL IN ACCORDANCE WITH § 9-316 OF THIS TITLE.~~

~~9-3A-15.~~

~~(A) THE BOARD MAY ISSUE A CEASE AND DESIST ORDER FOR PRACTICING ASSISTED LIVING MANAGEMENT WITHOUT A CERTIFICATE OR WITH AN UNAUTHORIZED PERSON OR FOR SUPERVISING OR AIDING AN UNAUTHORIZED PERSON IN THE PRACTICE OF ASSISTED LIVING MANAGEMENT.~~

~~(B) (1) AN ACTION FOR AIDING AND ABETTING MAY BE MAINTAINED IN THE NAME OF THE STATE OR THE BOARD TO ENJOIN;~~

~~(I) THE UNAUTHORIZED PRACTICE OF ASSISTED LIVING MANAGEMENT; OR~~

~~(II) CONDUCT THAT IS A GROUND FOR DISCIPLINARY ACTION UNDER § 9-3A-12 OF THIS SUBTITLE.~~

~~(2) AN ACTION UNDER THIS SECTION MAY BE BROUGHT IN ACCORDANCE WITH § 9-316.1(B) OF THIS TITLE.~~

~~9-401.~~

~~(A) Except as otherwise provided in this title, an individual may not:~~

~~(1) Practice, attempt to practice, or offer to practice as a nursing home administrator in this State unless licensed by the Board; or~~

~~(2) Supervise, direct, induce, or aid an unlicensed individual to practice as a nursing home administrator.~~

~~(B) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, AN INDIVIDUAL MAY NOT:~~

~~(1) PRACTICE, ATTEMPT TO PRACTICE, OR OFFER TO PRACTICE AS AN ASSISTED LIVING MANAGER IN THIS STATE UNLESS CERTIFIED BY THE BOARD; OR~~

~~(2) SUPERVISE, DIRECT, INDUCE, OR AID AN UNLICENSED INDIVIDUAL TO PRACTICE AS AN ASSISTED LIVING MANAGER.~~

~~9-402.~~

~~(a) (1) Unless authorized to practice as a nursing home administrator under this title, a person may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the person is authorized to practice as a nursing home administrator in this State.~~

~~[(b)] (2) Unless authorized to practice under this title, a person may not use the title "nursing home administrator", or the abbreviation "N.H.A." or any other designation, title, or abbreviation with the intent to represent that the person is authorized to practice as a nursing home administrator.~~

~~(B) (1) UNLESS AUTHORIZED TO PRACTICE AS AN ASSISTED LIVING MANAGER UNDER THIS TITLE, A PERSON MAY NOT REPRESENT TO THE PUBLIC BY TITLE, BY DESCRIPTION OF SERVICES, METHODS, OR PROCEDURES, OR OTHERWISE, THAT THE PERSON IS AUTHORIZED TO PRACTICE AS AN ASSISTED LIVING MANAGER IN THIS STATE.~~

~~(2) UNLESS AUTHORIZED TO PRACTICE UNDER THIS TITLE, A PERSON MAY NOT USE THE TITLE "ASSISTED LIVING MANAGER" OR ANY OTHER DESIGNATION, TITLE, OR ABBREVIATION WITH THE INTENT TO REPRESENT THAT THE PERSON IS AUTHORIZED TO PRACTICE AS AN ASSISTED LIVING MANAGER.~~

~~9-403.~~

~~(A) A person may not:~~

~~(1) Sell or fraudulently obtain or furnish or aid in selling or fraudulently obtaining or furnishing a license issued under this title; or~~

~~(2) Practice as a nursing home administrator under any license unlawfully or fraudulently obtained or unlawfully issued.~~

~~(B) A PERSON MAY NOT:~~

~~(1) SELL OR FRAUDULENTLY OBTAIN OR FURNISH OR AID IN SELLING OR FRAUDULENTLY OBTAINING OR FURNISHING A CERTIFICATE ISSUED UNDER THIS TITLE; OR~~

~~(2) PRACTICE AS AN ASSISTED LIVING MANAGER UNDER ANY CERTIFICATE UNLAWFULLY OR FRAUDULENTLY OBTAINED OR UNLAWFULLY ISSUED.~~

~~9-407.~~

~~(a) A person who violates any provision of this title is guilty of a misdemeanor and on conviction is subject to:~~

~~(1) A fine not exceeding \$1,000 for a first offense; and~~

~~(2) A fine not exceeding \$5,000 or imprisonment not exceeding 6 months or both for any subsequent violation of the same provision.~~

~~(b) The Board shall pay any fine collected under this section into the General Fund of the State.~~

~~9-501.~~

~~This title may be cited as the "Maryland Nursing Home Administrators [Licensing] AND ASSISTED LIVING MANAGERS Act".~~

~~9-502.~~

~~Subject to the evaluation and reestablishment provisions of the Program Evaluation Act, this title and all rules and regulations adopted under this title shall terminate and be of no effect after July 1, 2013.~~

~~SECTION 3. AND BE IT FURTHER ENACTED, That on or after October 1, 2009:~~

~~(1) The first two nursing home administrator positions on the Board of Nursing Home Administrators and Assisted Living Managers that becomes vacant shall be filled by certified assisted living managers;~~

~~(2) The third nursing home administrator position on the Board that becomes vacant shall be filled with a nursing home administrator who has experience with the Eden Alternative Green House or a similar program;~~

~~(3) The first related professional position on the Board that becomes vacant shall be filled by a physician who specializes in geriatrics;~~

~~(4) The second related professional position on the Board that becomes vacant shall be filled by a geriatric nurse practitioner;~~

~~(5) The first consumer position on the Board that becomes vacant shall be filled by a geriatric social worker;~~

~~(6) The second consumer position on the Board that becomes vacant shall be filled by a pharmacist;~~

~~(7) The third consumer position on the Board that becomes vacant shall be filled by a consumer that has or has had a family member living in a nursing home; and~~

~~(8) The fourth consumer position on the Board that becomes vacant shall be filled by a consumer that has or has had a family member living in an assisted living facility.~~

~~SECTION 2. AND BE IT FURTHER ENACTED, That § 9-203(b)(4) of the Health Occupations Article, as enacted by Section 1 of this Act, shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or~~

application to an executive director of the State Board of Examiners of Nursing Home Administrators appointed by the Board before the effective date of this Act.

SECTION ~~4~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, April 14, 2009.