

# HOUSE BILL 592

J3

(9lr2077)

## ENROLLED BILL

— Health and Government Operations/Finance —

Introduced by **The Speaker (By Request – Office of the Attorney General) and Delegates Atterbeary, D.E. Davis, Fennell, Gaines, Kelly, Sample–Hughes, Stein, ~~and Wilson~~ Wilson, Pendergrass, Pena–Melnyk, Bagnall, Barron, Bhandari, Carr, Charles, Chisholm, Cullison, Hill, Johnson, Kerr, Kipke, Krebs, R. Lewis, Metzgar, Morgan, Rosenberg, Saab, Szeliga, and K. Young**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

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Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
Speaker.

### CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Health Care Facilities – Comprehensive and Extended Care Facilities –**  
3 **Discharges and Transfers**

4 FOR the purpose of altering the basic rights afforded to each resident of a comprehensive  
5 care facility and an extended care facility; requiring certain individuals to pursue  
6 certain assistance from the medical assistance program in a certain manner; altering  
7 the contents of a certain form required to be provided to certain facilities by the  
8 Maryland Department of Health; requiring that a certain written notice be provided  
9 to certain residents; requiring a facility to provide a certain written notice as soon as  
10 practicable before discharge or transfer under certain circumstances; requiring the  
11 facility to provide any changes to a certain notice to recipients of the notice as soon

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#### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics indicate opposite chamber/conference committee amendments.*



1 as practicable if the information in the notice changes prior to the discharge or  
 2 transfer; requiring a facility to develop a certain post discharge plan of care for a  
 3 certain resident; requiring a facility to designate certain staff to coordinate the  
 4 development of a certain plan; requiring the facility to meet, if possible, with certain  
 5 individuals for a certain purpose within a certain period of time; requiring that a  
 6 certain plan be developed with the participation of certain individuals; requiring the  
 7 facility to include in a resident's medical record a certain explanation under certain  
 8 circumstances; requiring that a certain plan be developed in consultation with  
 9 certain individuals; altering the time at which a facility is required to provide certain  
 10 information to certain individuals; altering the information required to be provided  
 11 to certain individuals by certain facilities before discharge or transfer; requiring, to  
 12 the extent authorized under State and federal law, a facility to provide a certain  
 13 supply of certain medications at the time of discharge or transfer; altering the  
 14 authority of a facility to discharge or transfer a resident without obtaining the  
 15 written consent of the resident; altering the cooperation and assistance required of  
 16 a resident's next of kin or legal representative in the discharge planning process;  
 17 authorizing a facility to petition a certain circuit court for certain relief under certain  
 18 circumstances; authorizing the Attorney General to request that the court in a  
 19 certain action impose a certain civil penalty for certain violations under certain  
 20 circumstances; making conforming changes; and generally relating to discharges and  
 21 transfers from comprehensive care facilities and extended care facilities.

22 BY repealing and reenacting, with amendments,

23 Article – Health – General

24 Section 19–343, 19–344(c), 19–345.1, 19–345.2, and 19–345.3

25 Annotated Code of Maryland

26 (2015 Replacement Volume and 2018 Supplement)

27 BY repealing and reenacting, without amendments,

28 Article – Health – General

29 Section 19–345(a)

30 Annotated Code of Maryland

31 (2015 Replacement Volume and 2018 Supplement)

32 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

33 That the Laws of Maryland read as follows:

34 **Article – Health – General**

35 19–343.

36 (a) In this section and §§ 19–344 [and], 19–345, **19–345.1, 19–345.2, AND**  
 37 **19–345.3** of this subtitle, “facility” means a related institution that, under the rules and  
 38 regulations of the Department, is a comprehensive care facility or an extended care facility.

39 (b) (1) The General Assembly intends to promote the interests and well-being  
 40 of each resident of a facility.

1           (2) It is the policy of this State that, in addition to any other rights, each  
2 resident of a facility has the following basic rights:

3           (i) The right to be treated with consideration, respect, and full  
4 recognition of human dignity and individuality;

5           (ii) The right to receive treatment, care, and services that are  
6 adequate, appropriate, and in compliance with relevant State and federal laws, rules, and  
7 regulations;

8           (iii) The right to privacy;

9           (iv) The right to be free from mental and physical abuse;

10           **(V) THE RIGHT TO NOTICE, PROCEDURAL FAIRNESS, AND**  
11 **HUMANE TREATMENT WHEN BEING TRANSFERRED OR DISCHARGED FROM A**  
12 **FACILITY;**

13           **(VI) THE RIGHT TO PARTICIPATE IN DECISION MAKING**  
14 **REGARDING TRANSITIONS IN CARE, INCLUDING A TRANSFER OR DISCHARGE FROM**  
15 **A FACILITY;**

16           [(v)] **(VII)** The right to expect and receive appropriate assessment,  
17 management, and treatment of pain as an integral component of the patient's care;

18           [(vi)] **(VIII)** The right to be free from physical and chemical restraints,  
19 except for restraints that a physician authorizes for a clearly indicated medical need;

20           [(vii)] **(IX)** The right to receive respect and privacy in a medical care  
21 program; and

22           [(viii)] **(X)** The right to manage personal financial affairs.

23           (c) Each facility shall:

24           (1) Post, conspicuously in a public place, the policy set forth in subsection  
25 (b) of this section and the provisions in §§ 19-344(b) through (m), 19-345, and 19-346(i)(2)  
26 of this subtitle;

27           (2) Give a copy of the policy and those provisions:

28           (i) On admission, to the resident;

29           (ii) To the guardian, next of kin, or sponsoring agency of the resident;

30 and

- 1 (iii) To a representative payee of the resident;
- 2 (3) Keep a receipt for the copy that is signed by the person who received  
3 the copy; and
- 4 (4) Provide appropriate staff training to carry out the policy and those  
5 provisions.

6 19-344.

7 (c) (1) In this subsection, "agent" means a person who manages, uses, or  
8 controls the funds or assets that legally may be used to pay the applicant's or resident's  
9 share of costs or other charges for the facility's services.

10 (2) Except as provided by the Department, a facility may not charge an  
11 applicant or resident who is a medical assistance beneficiary, or the applicant's or resident's  
12 agent, any amount in addition to the amounts determined by the medical assistance  
13 program for services that are covered by medical assistance.

14 (3) Unless otherwise agreed, the financial obligation of the applicant's or  
15 resident's agent is limited to the amount of the applicant's or resident's funds that are  
16 considered available to the agent by the medical assistance program.

17 (4) (i) A facility may require an applicant, a resident, or the agent of an  
18 applicant or resident to agree to distribute any funds, including income or assets of the  
19 applicant or resident, which the medical assistance program has determined to be available  
20 to pay for the cost of the applicant's or resident's care, to the facility, promptly when due,  
21 for the cost of the applicant's or resident's care.

22 (ii) For the purpose of this section, funds of the applicant or resident  
23 include funds of the applicant or resident that are under the use, ownership, management,  
24 or control of the agent.

25 (iii) A resident or agent of the resident who has not paid a current  
26 obligation for the resident's care may apply to the medical assistance program for a  
27 determination of the funds available to pay for the cost of the resident's care.

28 (iv) If a request for a determination is made under subparagraph (iii)  
29 of this paragraph, the medical assistance program shall make the determination.

30 (v) If a resident or agent of a resident who has not paid a current  
31 obligation for the resident's care fails to request a determination under subparagraph (iii)  
32 of this paragraph, the facility may, without requesting the appointment of a guardian,  
33 petition the appropriate circuit court for an order **OR INJUNCTION** directing the resident  
34 or agent of the resident to request **AND PURSUE** the determination with due diligence **OR**

1 GRANTING OTHER APPROPRIATE RELIEF TO ENFORCE THE OBLIGATIONS UNDER  
2 THIS SECTION.

3 (vi) If a resident or agent of the resident fails to pay for the cost of  
4 the resident's care from funds that the medical assistance program has determined to be  
5 available to pay for that care, the facility may, without requesting the appointment of a  
6 guardian, petition the appropriate circuit court for an order directing the resident or agent  
7 of the resident to pay the facility from the funds determined by the medical assistance  
8 program to be available.

9 (5) (i) An applicant, a resident, or the agent of an applicant or resident  
10 shall seek AND PURSUE WITH DUE DILIGENCE, on behalf of the applicant or resident, all  
11 assistance from the medical assistance program which may be available to the applicant or  
12 resident.

13 (ii) The facility shall cooperate with and assist the agent in seeking  
14 assistance from the medical assistance program on behalf of the applicant or resident.

15 (iii) If a resident or the agent of a resident fails to seek assistance  
16 from the medical assistance program or to cooperate fully in the eligibility determination  
17 process, a facility providing care to the resident may, without requesting the appointment  
18 of a guardian, petition the appropriate circuit court for an order OR INJUNCTION requiring  
19 the resident or agent of the resident to seek assistance from the medical assistance program  
20 or to cooperate in the eligibility determination process with due diligence OR GRANTING  
21 OTHER APPROPRIATE RELIEF TO ENFORCE THE OBLIGATIONS UNDER THIS  
22 SECTION.

23 (6) (i) Any agent who willfully or with gross negligence violates the  
24 requirements of paragraph (4) of this subsection regarding the distribution of the  
25 applicant's or resident's funds is subject to a civil penalty not less than the amount of funds  
26 subject to the violation.

27 (ii) Any agent who willfully or with gross negligence violates the  
28 requirements of paragraph (5) of this subsection regarding an application for medical  
29 assistance by or on behalf of an applicant or resident is subject to a civil penalty not  
30 exceeding \$10,000.

31 (iii) The Attorney General is responsible for the enforcement and  
32 prosecution of violations of the provisions of paragraphs (4) and (5) of this subsection.

33 (7) Nothing in this subsection may be construed to prohibit any person  
34 from knowingly and voluntarily agreeing to guarantee payment for the cost of an  
35 applicant's care.

1 (a) A resident of a facility may not be transferred or discharged from the facility  
2 involuntarily except for the following reasons:

3 (1) The transfer or discharge is necessary for the resident's welfare and the  
4 resident's needs cannot be met in the facility;

5 (2) The transfer or discharge is appropriate because the resident's health  
6 has improved sufficiently so that the resident no longer needs the services provided by the  
7 facility;

8 (3) The health or safety of an individual in a facility is endangered;

9 (4) The resident has failed, after reasonable and appropriate notice, to pay  
10 for, or under Medicare or Medicaid or otherwise, to have paid for a stay at the facility; or

11 (5) The facility ceases to operate.

12 19-345.1.

13 (a) [Except as provided in subsection (e) of this section, a] A facility shall provide  
14 the resident with written notice of:

15 (1) Any proposed discharge or transfer; and

16 (2) The opportunity for a hearing in accordance with the provisions of this  
17 section before the discharge or transfer.

18 (b) The Department shall prepare and provide each facility with a standardized  
19 form that provides, in clear and simple language, at least the following information:

20 (1) Notice of the intended discharge or transfer of the resident,  
21 **INCLUDING THE PROPOSED DATE OF THE INTENDED DISCHARGE OR TRANSFER,**  
22 **WHICH MAY CHANGE AS A RESULT OF AN APPEAL OR THE DISCHARGE PLANNING**  
23 **PROCESS;**

24 (2) Each reason for the discharge or transfer;

25 **(3) THE LOCATION TO WHICH THE RESIDENT WILL BE DISCHARGED**  
26 **OR TRANSFERRED, WHICH MAY CHANGE AS A RESULT OF AN APPEAL OR THE**  
27 **DISCHARGE PLANNING PROCESS;**

28 ~~(4) THE NAMES OF THE FACILITY STAFF WHO:~~

29 ~~(i) ARE DESIGNATED TO PROVIDE SOCIAL WORK AND~~  
30 ~~DISCHARGE PLANNING SERVICES TO THE RESIDENT IN CONNECTION WITH THE~~  
31 ~~DISCHARGE OR TRANSFER; AND~~

~~(H) WILL BE RESPONSIBLE FOR THE DEVELOPMENT OF THE POST DISCHARGE PLAN OF CARE UNDER SUBSECTION (G) OF THIS SECTION;~~

(4) THE NAME OF THE SOCIAL WORKER OR OTHER PROFESSIONALLY QUALIFIED STAFF, WHICH MAY CHANGE DURING THE DISCHARGE PLANNING PROCESS, WHO:

(I) IS DESIGNATED TO PROVIDE SOCIAL SERVICES AND DISCHARGE PLANNING SERVICES TO THE RESIDENT IN CONNECTION WITH THE DISCHARGE OR TRANSFER; AND

(II) WILL BE RESPONSIBLE FOR THE DEVELOPMENT OF THE POST DISCHARGE PLAN OF CARE UNDER SUBSECTION (G) OF THIS SECTION;

(5) A PROPOSED DATE WITHIN 10 DAYS AFTER THE DATE OF THE NOTICE FOR A MEETING BETWEEN THE RESIDENT, THE RESIDENT'S REPRESENTATIVE, AND FACILITY STAFF TO DEVELOP THE POST DISCHARGE PLAN OF CARE UNDER SUBSECTION (G) OF THIS SECTION;

~~[(3)] (6) The right of the resident to request a hearing;~~

~~[(4)] (7) The right of the resident to consult with any lawyer the resident chooses;~~

~~[(5)] (8) The availability of the services of the Legal Aid Bureau, the Older American Act Senior Legal Assistance Programs, and other agencies that may provide assistance to individuals who need legal counsel;~~

~~[(6)] (9) The availability of the [Department of Aging and local Office on Aging] Long-Term Care Ombudsman PROGRAM to assist the resident; and~~

~~[(7)] (10) The provisions of this section.~~

(c) Except as otherwise provided in this section, at least 30 days before the facility involuntarily transfers or discharges a resident, the facility shall:

(1) Provide to the resident the written notice required under subsection (a) of this section; and

(2) Provide the written notice required under subsection (a) of this section to:

(I) THE RESIDENT;

1                    [(i)] (II)      The next of kin, guardian, or any other individual known  
2 to have acted as the [individual's] RESIDENT'S representative, if any;

3                    [(ii)] (III)    The Long-Term Care Ombudsman; and

4                    [(iii)] (IV)    The Department.

5            (d)    (1)    (i)    In accordance with regulations adopted by the Secretary, the  
6 facility shall provide the resident with an opportunity for a hearing on the proposed  
7 transfer or discharge.

8                    (ii)    The regulations adopted by the Secretary may provide for the  
9 establishment of an escrow account when:

10                    1.      The basis for the discharge is nonpayment; and

11                    2.      The resident continues to reside in the facility while the  
12 appeal is pending.

13            (2)    Except as otherwise provided in this subsection, hearings on proposed  
14 transfers or discharges shall be conducted in accordance with the provisions of Title 10,  
15 Subtitle 2 of the State Government Article and the Medicaid Fair Hearing Procedures.

16            (3)    Any hearing on a proposed discharge or transfer of a resident:

17                    (i)    Is not a contested case as defined in § 10-202 of the State  
18 Government Article; and

19                    (ii)    May not include the Secretary as a party.

20            (4)    A decision by an administrative law judge on a proposed discharge or  
21 transfer of a resident:

22                    (i)    Is not a decision of the Secretary;

23                    (ii)    Unless appealed, is final and binding on the parties; and

24                    (iii)    May be appealed in accordance with § 10-222 of the State  
25 Government Article as if it were a contested case but the appeal does not automatically  
26 stay the decision of the administrative law judge.

27            (e)    [(1) The provisions of this section requiring 30 days' notice and an  
28 opportunity for a hearing before discharge or transfer of a resident do not apply if:] **THE**  
29 **FACILITY SHALL PROVIDE THE WRITTEN NOTICE REQUIRED IN SUBSECTION (A) OF**  
30 **THIS SECTION AS SOON AS PRACTICABLE BEFORE DISCHARGE OR TRANSFER IF:**



1            [(i)] (1)        An emergency exists and health or safety of the resident  
2 or other residents would be placed in imminent and serious jeopardy if the resident were  
3 not transferred or discharged from the facility as soon as possible; or

4            [(ii)] (2)        The resident has not resided in the facility for 30 days.

5            [(2)    If a facility discharges or transfers a resident under the provisions of  
6 this subsection, the facility shall provide reasonable notice of the proposed discharge or  
7 transfer.]

8            (F)    IF THE INFORMATION IN THE NOTICE PROVIDED UNDER SUBSECTION  
9 (C) OF THIS SECTION CHANGES BEFORE THE DISCHARGE OR TRANSFER, THE  
10 FACILITY SHALL PROVIDE THE CHANGES TO THE RECIPIENTS OF THE NOTICE AS  
11 SOON AS PRACTICABLE AFTER THE NEW INFORMATION BECOMES AVAILABLE.

12            (G)    (1)    BEFORE ANY DISCHARGE OR TRANSFER AND SUBJECT TO  
13 PARAGRAPHS (4) AND (5) OF THIS SUBSECTION, A FACILITY SHALL DEVELOP A POST  
14 DISCHARGE PLAN OF CARE FOR THE RESIDENT TO ASSIST THE RESIDENT WITH  
15 ADJUSTING TO THE RESIDENT'S NEW LIVING ENVIRONMENT AND THAT:

16            (I)    ADDRESSES THE RESIDENT'S POST DISCHARGE GOALS OF  
17 CARE AND TREATMENT PREFERENCES; AND

18            (II)   IDENTIFIES EACH OF THE RESIDENT'S REASONABLY  
19 ANTICIPATED MEDICAL AND BASIC NEEDS AFTER DISCHARGE OR TRANSFER AND  
20 ESTABLISHES A PLAN FOR MEETING THOSE NEEDS; ~~AND~~

21            ~~(III)   ASSISTS THE RESIDENT WITH ADJUSTING TO THE~~  
22 ~~RESIDENT'S NEW LIVING ENVIRONMENT.~~

23            (2)    THE FACILITY SHALL DESIGNATE A SOCIAL WORKER OR OTHER  
24 PROFESSIONALLY QUALIFIED STAFF MEMBER TO COORDINATE THE DEVELOPMENT  
25 OF THE RESIDENT'S POST DISCHARGE PLAN OF CARE.

26            (3)    THE FACILITY SHALL, IF POSSIBLE, MEET WITH THE RESIDENT  
27 AND, WITH THE RESIDENT'S CONSENT, THE RESIDENT'S REPRESENTATIVE WITHIN  
28 10 DAYS AFTER PROVIDING THE NOTICE REQUIRED UNDER SUBSECTION (A) OF THIS  
29 SECTION TO DISCUSS THE POST DISCHARGE PLAN OF CARE FOR THE RESIDENT.

30            (4)    (I)    THE RESIDENT'S POST DISCHARGE PLAN OF CARE SHALL BE  
31 DEVELOPED WITH THE PARTICIPATION OF THE RESIDENT AND, WITH THE  
32 RESIDENT'S CONSENT, THE RESIDENT'S REPRESENTATIVE.

1                   **(II) IF THE POST DISCHARGE PLAN OF CARE WAS DEVELOPED**  
2 **WITHOUT THE PARTICIPATION OF THE RESIDENT OR THE RESIDENT'S**  
3 **REPRESENTATIVE, THE FACILITY SHALL INCLUDE IN THE RESIDENT'S MEDICAL**  
4 **RECORD AN EXPLANATION OF WHY THE RESIDENT OR THE RESIDENT'S**  
5 **REPRESENTATIVE DID NOT PARTICIPATE.**

6                   **(5) THE RESIDENT'S POST DISCHARGE PLAN OF CARE SHALL BE**  
7 **DEVELOPED IN CONSULTATION WITH:**

8                   **(I) THE RESIDENT'S ATTENDING PHYSICIAN;**

9                   **(II) A REGISTERED NURSE RESPONSIBLE FOR THE CARE OF THE**  
10 **RESIDENT; AND**

11                   **(III) ANY OTHER APPROPRIATE STAFF OR PROFESSIONAL**  
12 **INVOLVED WITH MEETING THE RESIDENT'S MEDICAL NEEDS.**

13 19-345.2.

14           (a) In addition to the provisions of §§ 19-345 and 19-345.1 of this subtitle, a  
15 facility may not involuntarily discharge or transfer a resident unless, within 48 hours  
16 before the discharge or transfer, the facility has:

17                   (1) Provided or obtained:

18                   (i) A comprehensive medical assessment and evaluation of the  
19 resident, including a physical examination, that is documented in the resident's medical  
20 record;

21                   (ii) A post discharge plan of care for the resident that is developed,  
22 if possible, with the participation of the resident's next of kin, guardian, or legal  
23 representative **IN ACCORDANCE WITH § 19-345.1 OF THIS SUBTITLE**; and

24                   (iii) Written documentation from the resident's attending physician  
25 indicating that the transfer or discharge is in accordance with the post discharge plan of  
26 care and is not contraindicated by the resident's medical condition; and

27                   (2) Provided information to the resident concerning the resident's rights to  
28 make decisions concerning health care, including:

29                   (i) The right to accept or refuse medical treatment;

30                   (ii) The right to make an advance directive, including the right to  
31 make a living will and the right to appoint an agent to make health care decisions; and

32                   (iii) The right to revoke an advance directive.

1 (b) Except as provided in subsection ~~(c)(3)~~ **(D)(3)** of this section, [at the time of  
2 transfer or discharge] **AND AT LEAST 24 HOURS BEFORE DISCHARGE OR TRANSFER**,  
3 the facility shall provide the resident [or] **AND** the resident's next of kin, guardian, or legal  
4 representative with:

5 (1) **[A] THE** written statement of the medical assessment and evaluation  
6 and [post discharge plan of care] **WRITTEN DOCUMENTATION FROM THE RESIDENT'S**  
7 **ATTENDING PHYSICIAN** required under subsection (a) of this section;

8 **(2) THE POST DISCHARGE PLAN OF CARE DEVELOPED UNDER §**  
9 **19-345.1 OF THIS SUBTITLE;**

10 ~~[(2) (3) A written statement itemizing the medications currently being~~  
11 ~~taken by the resident;~~

12 ~~[(3) (4) To the extent permitted under State and federal law, at least a~~  
13 ~~3-day supply of the medications currently being taken by the resident;~~

14 ~~[(4) (5) (4) (3)~~ The information necessary to assist the resident[,] **AND**  
15 the resident's next of kin, **GUARDIAN**, or legal representative in obtaining additional  
16 prescriptions for necessary medication through consultation with the resident's treating  
17 physician; and

18 ~~[(5) (6) (5) (4)~~ A written statement containing the date, time, method,  
19 mode, and destination of discharge.

20 **(C) TO THE EXTENT AUTHORIZED UNDER STATE AND FEDERAL LAW, A**  
21 **FACILITY SHALL PROVIDE AT LEAST A 3-DAY SUPPLY OF MEDICATIONS CURRENTLY**  
22 **BEING TAKEN BY THE RESIDENT AT THE TIME OF DISCHARGE OR TRANSFER.**

23 ~~(D)~~ **(D)**(1) Except as provided in paragraphs (2) and (3) of this subsection, a facility  
24 may not discharge or transfer a resident unless the resident is capable of and has consented  
25 in writing to the discharge or transfer.

26 (2) A facility may discharge or transfer a resident without obtaining the  
27 written consent of the resident **FOR ONE OF THE REASONS LISTED IN § 19-345(A) OF**  
28 **THIS SUBTITLE** if the discharge or transfer:

29 (i) Is in accordance with a post discharge plan of care developed  
30 under [subsection (a) of this section] **§ 19-345.1 OF THIS SUBTITLE**; [and]

31 **(II) IS TO THE COMMUNITY IN WHICH THE RESIDENT RESIDED**  
32 **BEFORE BECOMING A RESIDENT OF THE FACILITY UNLESS THE FACILITY**

1 DOCUMENTS WHY IT IS IN THE BEST INTEREST OF THE RESIDENT TO BE DISCHARGED  
 2 TO ANOTHER LOCATION;

3 (III) IS TO ANOTHER LICENSED PROVIDER, UNLESS:

4 1. THE RESIDENT IS BEING DISCHARGED OR  
 5 TRANSFERRED BECAUSE THE RESIDENT'S HEALTH HAS IMPROVED SUFFICIENTLY  
 6 AND THE RESIDENT NO LONGER NEEDS THE SERVICES PROVIDED BY THE FACILITY;

7 2. THE RESIDENT HAS NO PENDING APPLICATION TO  
 8 ~~THE MARYLAND MEDICAL ASSISTANCE PROGRAM,~~ MEDICAL ASSISTANCE  
 9 PROGRAM OR IS INELIGIBLE FOR THE MARYLAND MEDICAL ASSISTANCE PROGRAM  
 10 MEDICAL ASSISTANCE PROGRAM AND IS BEING DISCHARGED OR TRANSFERRED FOR  
 11 NONPAYMENT UNDER § 19-345(A)(4) OF THIS SUBTITLE; OR

12 3. ~~A. THE~~ IF THE RESIDENT IS OR MAY BE ELIGIBLE  
 13 FOR THE MARYLAND MEDICAL ASSISTANCE PROGRAM MEDICAL ASSISTANCE  
 14 PROGRAM;

15 ~~B. A.~~ THE FACILITY HAS FULFILLED ITS OBLIGATION  
 16 UNDER § 19-334(C) § 19-344(C) OF THIS SUBTITLE TO COOPERATE WITH AND ASSIST  
 17 THE RESIDENT OR THE RESIDENT'S REPRESENTATIVE IN SEEKING ASSISTANCE  
 18 FROM THE MARYLAND MEDICAL ASSISTANCE PROGRAM MEDICAL ASSISTANCE  
 19 PROGRAM AND HAS DOCUMENTED THE COOPERATION AND ASSISTANCE;

20 ~~C. THE FACILITY HAS DOCUMENTED THE COOPERATION~~  
 21 ~~AND ASSISTANCE PROVIDED UNDER ITEM B OF THIS ITEM;~~

22 ~~D. B.~~ THE RESIDENT OR RESIDENT'S REPRESENTATIVE HAS  
 23 REFUSED TO APPLY FOR OR SEEK ASSISTANCE FROM THE MARYLAND MEDICAL  
 24 ASSISTANCE PROGRAM MEDICAL ASSISTANCE PROGRAM OR HAS REPEATEDLY  
 25 FAILED, DESPITE THE FACILITY'S DOCUMENTED ASSISTANCE, TO MAKE  
 26 GOOD-FAITH EFFORTS TO SUPPLY INFORMATION OR MATERIALS NECESSARY FOR  
 27 THE MEDICAL ASSISTANCE PROGRAM TO ENROLL THE RESIDENT; AND

28 ~~E. C.~~ THE RESIDENT IS BEING DISCHARGED FOR  
 29 NONPAYMENT UNDER § 19-345(A)(4) OF THIS SUBTITLE; AND

30 [(ii)] (IV) Is to a safe and secure environment [where the resident  
 31 will be under the care of:

32 1. Another licensed, certified, or registered care provider; or

1                             2.     Another person who has agreed in writing to provide a safe  
2 and secure environment].

3                     (3)     A facility that is certified as a continuing care provider under Title 10,  
4 Subtitle 4 of the Human Services Article is not subject to the provisions of subsection (b) of  
5 this section if:

6                             (i)     The facility transfers a resident to a lesser level of care within  
7 the same facility in accordance with a contractual agreement between the facility and the  
8 resident; and

9                             (ii)    The transfer is approved by the attending physician.

10           ~~(E)~~     **(1)**    If the requirements of §§ 19–345 and 19–345.1 of this subtitle  
11 and subsections (a) and (b) of this section have been met, the resident’s next of kin or legal  
12 representative shall cooperate and assist in the discharge planning process, including:

13                           ~~(1)~~     **(I)**    Contacting, cooperating with, and assisting other facilities  
14 considering admitting the resident; and

15                           ~~(2)~~     **(II)**   Cooperating with governmental agencies, including ~~applying for~~  
16 ~~medical assistance for the resident~~ **MEETING THE REQUIREMENTS OF § 19–344(C) OF**  
17 **THIS SUBTITLE TO SEEK AND PURSUE WITH DUE DILIGENCE ASSISTANCE FROM THE**  
18 **MEDICAL ASSISTANCE PROGRAM.**

19                           **(2)    A FACILITY MAY, WITHOUT REQUESTING THE APPOINTMENT OF A**  
20 **GUARDIAN, PETITION THE APPROPRIATE CIRCUIT COURT FOR AN ORDER OR**  
21 **INJUNCTION DIRECTED AT THE RESIDENT OR AGENT OF THE RESIDENT FOR**  
22 **APPROPRIATE RELIEF TO ENFORCE THIS SUBSECTION.**

23                           ~~(F)~~     **(F)**  If requested by any person during the process of transferring or discharging a  
24 resident or on its own initiative, the Office of the Attorney General may investigate whether  
25 an abuse of funds under § 19–346 of this subtitle contributed to the decision to transfer or  
26 discharge the resident and may make appropriate referrals of the matter to other  
27 government agencies.

28 19–345.3.

29                     (a)     The Secretary may impose a civil money penalty not to exceed \$10,000 for:

30                             (1)     Each violation by a facility of § 19–345, § 19–345.1, or § 19–345.2 of this  
31 subtitle; or

32                             (2)     Each willful or grossly negligent violation by a resident’s agent or legal  
33 representative of § 19–345, § 19–345.1, or § 19–345.2 of this subtitle.

1 (b) If a civil money penalty is imposed under this section, the facility or agent or  
2 legal representative of the resident shall have the right to appeal from an order imposing  
3 the civil money penalty in accordance with Title 10, Subtitle 2 of the State Government  
4 Article.

5 (c) (1) A resident, resident's agent, or resident's attorney, or the Attorney  
6 General on behalf of the resident, who believes that an involuntary discharge or transfer  
7 that violates the requirements of § 19-345, § 19-345.1, or § 19-345.2 of this subtitle is  
8 imminent or has taken place may request injunctive relief from a circuit court.

9 (2) **IN AN ACTION BROUGHT BY THE ATTORNEY GENERAL UNDER**  
10 **THIS SUBSECTION, THE ATTORNEY GENERAL MAY REQUEST THAT THE COURT**  
11 **IMPOSE A CIVIL PENALTY NOT TO EXCEED \$100,000 FOR EACH VIOLATION BY A**  
12 **FACILITY OF § 19-345, § 19-345.1, OR § 19-345.2 OF THIS SUBTITLE.**

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
14 October 1, 2019.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.