

# HOUSE BILL 592

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CF SB 669

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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**

Introduced and read first time: February 4, 2019

Assigned to: Health and Government Operations

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 13, 2019

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## 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  
12 as practicable if the information in the notice changes prior to the discharge or  
13 transfer; requiring a facility to develop a certain post discharge plan of care for a  
14 certain resident; requiring a facility to designate certain staff to coordinate the  
15 development of a certain plan; requiring the facility to meet, if possible, with certain  
16 individuals for a certain purpose within a certain period of time; requiring that a  
17 certain plan be developed with the participation of certain individuals; requiring the  
18 facility to include in a resident's medical record a certain explanation under certain  
19 circumstances; requiring that a certain plan be developed in consultation with  
20 certain individuals; altering the time at which a facility is required to provide certain  
21 information to certain individuals; altering the information required to be provided

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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.



1 to certain individuals by certain facilities before discharge or transfer; requiring, to  
 2 the extent authorized under State and federal law, a facility to provide a certain  
 3 supply of certain medications at the time of discharge or transfer; altering the  
 4 authority of a facility to discharge or transfer a resident without obtaining the  
 5 written consent of the resident; altering the cooperation and assistance required of  
 6 a resident's next of kin or legal representative in the discharge planning process;  
 7 authorizing a facility to petition a certain circuit court for certain relief under certain  
 8 circumstances; authorizing the Attorney General to request that the court in a  
 9 certain action impose a certain civil penalty for certain violations under certain  
 10 circumstances; making conforming changes; and generally relating to discharges and  
 11 transfers from comprehensive care facilities and extended care facilities.

12 BY repealing and reenacting, with amendments,  
 13 Article – Health – General  
 14 Section 19–343, 19–344(c), 19–345.1, 19–345.2, and 19–345.3  
 15 Annotated Code of Maryland  
 16 (2015 Replacement Volume and 2018 Supplement)

17 BY repealing and reenacting, without amendments,  
 18 Article – Health – General  
 19 Section 19–345(a)  
 20 Annotated Code of Maryland  
 21 (2015 Replacement Volume and 2018 Supplement)

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

24 **Article – Health – General**

25 19–343.

26 (a) In this section and §§ 19–344 [and], 19–345, **19–345.1, 19–345.2, AND**  
 27 **19–345.3** of this subtitle, “facility” means a related institution that, under the rules and  
 28 regulations of the Department, is a comprehensive care facility or an extended care facility.

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

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

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

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

1 (iii) The right to privacy;

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

3 (V) THE RIGHT TO NOTICE, PROCEDURAL FAIRNESS, AND  
4 HUMANE TREATMENT WHEN BEING TRANSFERRED OR DISCHARGED FROM A  
5 FACILITY;

6 (VI) THE RIGHT TO PARTICIPATE IN DECISION MAKING  
7 REGARDING TRANSITIONS IN CARE, INCLUDING A TRANSFER OR DISCHARGE FROM  
8 A FACILITY;

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

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

13 [(vii)] (IX) The right to receive respect and privacy in a medical care  
14 program; and

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

16 (c) Each facility shall:

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

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

21 (i) On admission, to the resident;

22 (ii) To the guardian, next of kin, or sponsoring agency of the resident;  
23 and

24 (iii) To a representative payee of the resident;

25 (3) Keep a receipt for the copy that is signed by the person who received  
26 the copy; and

27 (4) Provide appropriate staff training to carry out the policy and those  
28 provisions.

29 19–344.

1           (c)   (1)   In this subsection, “agent” means a person who manages, uses, or  
2 controls the funds or assets that legally may be used to pay the applicant’s or resident’s  
3 share of costs or other charges for the facility’s services.

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

8           (3)   Unless otherwise agreed, the financial obligation of the applicant’s or  
9 resident’s agent is limited to the amount of the applicant’s or resident’s funds that are  
10 considered available to the agent by the medical assistance program.

11          (4)   (i)   A facility may require an applicant, a resident, or the agent of an  
12 applicant or resident to agree to distribute any funds, including income or assets of the  
13 applicant or resident, which the medical assistance program has determined to be available  
14 to pay for the cost of the applicant’s or resident’s care, to the facility, promptly when due,  
15 for the cost of the applicant’s or resident’s care.

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

19                   (iii)   A resident or agent of the resident who has not paid a current  
20 obligation for the resident’s care may apply to the medical assistance program for a  
21 determination of the funds available to pay for the cost of the resident’s care.

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

24                   (v)   If a resident or agent of a resident who has not paid a current  
25 obligation for the resident’s care fails to request a determination under subparagraph (iii)  
26 of this paragraph, the facility may, without requesting the appointment of a guardian,  
27 petition the appropriate circuit court for an order **OR INJUNCTION** directing the resident  
28 or agent of the resident to request **AND PURSUE** the determination with due diligence **OR**  
29 **GRANTING OTHER APPROPRIATE RELIEF TO ENFORCE THE OBLIGATIONS UNDER**  
30 **THIS SECTION.**

31                   (vi)   If a resident or agent of the resident fails to pay for the cost of  
32 the resident’s care from funds that the medical assistance program has determined to be  
33 available to pay for that care, the facility may, without requesting the appointment of a  
34 guardian, petition the appropriate circuit court for an order directing the resident or agent  
35 of the resident to pay the facility from the funds determined by the medical assistance  
36 program to be available.

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

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

7                   (iii)   If a resident or the agent of a resident fails to seek assistance  
8 from the medical assistance program or to cooperate fully in the eligibility determination  
9 process, a facility providing care to the resident may, without requesting the appointment  
10 of a guardian, petition the appropriate circuit court for an order OR INJUNCTION requiring  
11 the resident or agent of the resident to seek assistance from the medical assistance program  
12 or to cooperate in the eligibility determination process with due diligence OR GRANTING  
13 OTHER APPROPRIATE RELIEF TO ENFORCE THE OBLIGATIONS UNDER THIS  
14 SECTION.

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

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

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

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

28 19-345.

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

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

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

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

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

3 (5) The facility ceases to operate.

4 19-345.1.

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

7 (1) Any proposed discharge or transfer; and

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

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

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

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

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

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

21 ~~(I) ARE DESIGNATED TO PROVIDE SOCIAL WORK AND~~  
22 ~~DISCHARGE PLANNING SERVICES TO THE RESIDENT IN CONNECTION WITH THE~~  
23 ~~DISCHARGE OR TRANSFER; AND~~

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

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

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

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

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

10                    [(3)] (6)        The right of the resident to request a hearing;

11                    [(4)] (7)        The right of the resident to consult with any lawyer the resident  
 12 chooses;

13                    [(5)] (8)        The availability of the services of the Legal Aid Bureau, the Older  
 14 American Act Senior Legal Assistance Programs, and other agencies that may provide  
 15 assistance to individuals who need legal counsel;

16                    [(6)] (9)        The availability of the [Department of Aging and local Office on  
 17 Aging] Long-Term Care Ombudsman **PROGRAM** to assist the resident; and

18                    [(7)] (10)       The provisions of this section.

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

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

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

25                    (I)        **THE RESIDENT;**

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

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

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

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

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

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

7 2. The resident continues to reside in the facility while the  
8 appeal is pending.

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

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

13 (i) Is not a contested case as defined in § 10–202 of the State  
14 Government Article; and

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

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

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

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

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

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

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

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



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

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

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

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

14                    (II) IDENTIFIES EACH OF THE RESIDENT'S REASONABLY  
15 ANTICIPATED MEDICAL AND BASIC NEEDS AFTER DISCHARGE OR TRANSFER AND  
16 ESTABLISHES A PLAN FOR MEETING THOSE NEEDS; AND

17                    (III) ASSISTS THE RESIDENT WITH ADJUSTING TO THE  
18 RESIDENT'S NEW LIVING ENVIRONMENT.

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

22            (3) THE FACILITY SHALL, IF POSSIBLE, MEET WITH THE RESIDENT  
23 AND, WITH THE RESIDENT'S CONSENT, THE RESIDENT'S REPRESENTATIVE WITHIN  
24 10 DAYS AFTER PROVIDING THE NOTICE REQUIRED UNDER SUBSECTION (A) OF THIS  
25 SECTION TO DISCUSS THE POST DISCHARGE PLAN OF CARE FOR THE RESIDENT.

26            (4) (I) THE RESIDENT'S POST DISCHARGE PLAN OF CARE SHALL BE  
27 DEVELOPED WITH THE PARTICIPATION OF THE RESIDENT AND, WITH THE  
28 RESIDENT'S CONSENT, THE RESIDENT'S REPRESENTATIVE.

29                    (II) IF THE POST DISCHARGE PLAN OF CARE WAS DEVELOPED  
30 WITHOUT THE PARTICIPATION OF THE RESIDENT OR THE RESIDENT'S  
31 REPRESENTATIVE, THE FACILITY SHALL INCLUDE IN THE RESIDENT'S MEDICAL  
32 RECORD AN EXPLANATION OF WHY THE RESIDENT OR THE RESIDENT'S  
33 REPRESENTATIVE DID NOT PARTICIPATE.

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

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

4           **(II) A REGISTERED NURSE RESPONSIBLE FOR THE CARE OF THE**  
5 **RESIDENT; AND**

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

8 19-345.2.

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

12           (1) Provided or obtained:

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

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

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

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

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

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

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

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

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

4 (2) **THE POST DISCHARGE PLAN OF CARE DEVELOPED UNDER §**  
 5 **19-345.1 OF THIS SUBTITLE;**

6 [(2)] (3) A written statement itemizing the medications currently being  
 7 taken by the resident;

8 ~~[(3)] (4) To the extent permitted under State and federal law, at least a~~  
 9 ~~3-day supply of the medications currently being taken by the resident;~~

10 [(4)] (5) (4) The information necessary to assist the resident[,] AND the  
 11 resident's next of kin, **GUARDIAN**, or legal representative in obtaining additional  
 12 prescriptions for necessary medication through consultation with the resident's treating  
 13 physician; and

14 [(5)] (6) (5) A written statement containing the date, time, method, mode,  
 15 and destination of discharge.

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

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

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

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

27 (ii) **IS TO THE COMMUNITY IN WHICH THE RESIDENT RESIDED**  
 28 **BEFORE BECOMING A RESIDENT OF THE FACILITY UNLESS THE FACILITY**  
 29 **DOCUMENTS WHY IT IS IN THE BEST INTEREST OF THE RESIDENT TO BE DISCHARGED**  
 30 **TO ANOTHER LOCATION;**

31 (iii) **IS TO ANOTHER LICENSED PROVIDER, UNLESS:**

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

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

9                   3.    ~~A.    THE~~ IF THE RESIDENT IS OR MAY BE ELIGIBLE  
10 FOR THE ~~MARYLAND MEDICAL ASSISTANCE PROGRAM~~ MEDICAL ASSISTANCE  
11 PROGRAM;

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

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

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

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

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

29                   1.    Another licensed, certified, or registered care provider; or  
30                   2.    Another person who has agreed in writing to provide a safe  
31 and secure environment].

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

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

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

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

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

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

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

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

23 19–345.3.

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

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

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

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

33 (c) **(1)** A resident, resident’s agent, or resident’s attorney, or the Attorney  
 34 General on behalf of the resident, who believes that an involuntary discharge or transfer

1 that violates the requirements of § 19–345, § 19–345.1, or § 19–345.2 of this subtitle is  
2 imminent or has taken place may request injunctive relief from a circuit court.

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

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
8 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.