

HOUSE BILL 1351

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By: **Delegate Reznik**

Introduced and read first time: February 11, 2022

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Health Facilities – Delegation of Inspection Authority – Related Institutions and**
3 **Nursing Homes**

4 FOR the purpose of authorizing the Secretary of Health, with the consent of a unit of local
5 government, to delegate to the unit of local government the authority to inspect and
6 to conduct site visits and full surveys of related institutions and nursing homes;
7 requiring related institutions and nursing homes to report certain information to a
8 unit of local government if the Secretary has delegated inspection authority; and
9 generally relating to the inspection of related institutions and nursing homes and
10 the delegation of authority.

11 BY repealing and reenacting, with amendments,
12 Article – Health – General
13 Section 19–304, 19–308, 19–1406, 19–1408, 19–1413.1, and 19–1414
14 Annotated Code of Maryland
15 (2019 Replacement Volume and 2021 Supplement)

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

18 **Article – Health – General**

19 19–304.

20 (a) A hospital or related institution shall:

21 (1) Report an unexpected occurrence related to an individual’s medical
22 treatment that results in death or serious disability that is not related to the natural course
23 of the individual’s illness or underlying disease condition; and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) Submit the report [to the Department] within 5 days of the hospital's
2 or related institution's knowledge of the occurrence **TO:**

3 **(I) THE DEPARTMENT; AND**

4 **(II) IF THE SECRETARY DELEGATED INSPECTION AUTHORITY**
5 **UNDER § 19-308(C) OF THIS SUBTITLE OR § 19-1408(D) OF THIS TITLE, THE UNIT OF**
6 **LOCAL GOVERNMENT.**

7 (b) A hospital or related institution may report [to the Department] an
8 unexpected occurrence or other incident related to an individual's medical treatment that
9 does not result in death or serious disability **TO:**

10 **(1) THE DEPARTMENT; AND**

11 **(2) IF THE SECRETARY DELEGATED INSPECTION AUTHORITY IN**
12 **ACCORDANCE WITH § 19-308(C) OF THIS SUBTITLE OR § 19-1408(D) OF THIS TITLE,**
13 **THE UNIT OF LOCAL GOVERNMENT.**

14 (c) A hospital or related institution shall:

15 (1) Conduct a root cause analysis of an occurrence required to be reported
16 under subsection (a) of this section; and

17 (2) Unless the Department approves a longer time period, submit the root
18 cause analysis [to the Department] within 60 days of the hospital's or related institution's
19 knowledge of the occurrence **TO:**

20 **(I) THE DEPARTMENT; AND**

21 **(II) IF THE SECRETARY DELEGATED INSPECTION AUTHORITY**
22 **UNDER § 19-308(C) OF THIS SUBTITLE OR § 19-1408(D) OF THIS TITLE, THE UNIT OF**
23 **LOCAL GOVERNMENT.**

24 (d) If a hospital or related institution fails to comply with subsection (a) or (c) of
25 this section, the Secretary may impose a fine of \$500 per day for each day the violation
26 continues.

27 (e) The Secretary shall adopt regulations to implement this section.

28 19-308.

29 (a) The Secretary shall adopt reasonable rules and regulations that set standards
30 of services for related institutions, accredited hospitals, nonaccredited hospitals, accredited

1 residential treatment centers, and nonaccredited residential treatment centers in the
2 following areas:

- 3 (1) The care of patients;
- 4 (2) The medical supervision of patients;
- 5 (3) The physical environment;
- 6 (4) Disease control;
- 7 (5) Sanitation;
- 8 (6) Safety; and
- 9 (7) Dietary matters.

10 (b) (1) To assure compliance with the standards adopted under this subtitle,
11 the Secretary shall have an inspection made:

12 (i) Of each related institution, each accredited hospital or
13 nonaccredited hospital, and each accredited residential treatment center or nonaccredited
14 residential treatment center for which a license is sought; and

15 (ii) Periodically of each related institution, each accredited hospital
16 or nonaccredited hospital, and each accredited residential treatment center or
17 nonaccredited residential treatment center for which a license has been issued.

18 (2) At least 2 inspections a year of each related institution shall be
19 unannounced.

20 (3) The part of a building that contains part of a hospital, residential
21 treatment center, or related institution and any outbuilding are considered part of the
22 facility and are subject to inspection to determine occupancy status for licensing purposes.

23 (4) Subject to § 2–1257 of the State Government Article, during each
24 regular session of the General Assembly, the Department shall submit to the General
25 Assembly a report on the inspections.

26 (5) (i) An employee of the Department may not inform a hospital,
27 residential treatment center, or related institution of any proposed inspection activity,
28 unless the chief of the employee's division directs the employee to do so.

29 (ii) An employee who violates any provision of this paragraph is
30 guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or
31 imprisonment not exceeding 1 year or both.

1 **(C) WITH THE CONSENT OF A UNIT OF LOCAL GOVERNMENT, THE**
2 **SECRETARY MAY DELEGATE TO THE UNIT OF LOCAL GOVERNMENT THE AUTHORITY**
3 **TO INSPECT RELATED INSTITUTIONS UNDER THIS SECTION.**

4 19–1406.

5 (a) Within 15 days of the request for an appeal by a nursing home, the nursing
6 home shall deposit the amount of the civil money penalty in an interest bearing escrow
7 account, the nursing home shall bear any cost associated with establishing the escrow
8 account, and the account shall be titled in the name of the nursing home and the Maryland
9 Department of Health as joint owners.

10 (b) When the Secretary issues the final decision of the Department:

11 (1) If the decision upholds the imposition of the full civil money penalty,
12 the escrow funds will be released [to the Department] within 15 days from the date of the
13 decision **TO:**

14 **(I) THE DEPARTMENT; OR**

15 **(II) IF THE SECRETARY DELEGATED INSPECTION AUTHORITY**
16 **UNDER § 19–1408(D) OF THIS SUBTITLE, THE UNIT OF LOCAL GOVERNMENT;**

17 (2) If the decision upholds the imposition of a civil penalty, but reduces the
18 amount of the civil penalty, the amount due the Department **OR A UNIT OF LOCAL**
19 **GOVERNMENT** will be released [to the Department] with accrued interest within 15 days
20 of the date of the decision and the balance will be released to the nursing home within 15
21 days of the date of the decision **TO:**

22 **(I) THE DEPARTMENT; OR**

23 **(II) IF THE SECRETARY DELEGATED INSPECTION AUTHORITY**
24 **TO A UNIT OF LOCAL GOVERNMENT UNDER § 19–1408(D) OF THIS SUBTITLE, THE**
25 **UNIT OF LOCAL GOVERNMENT; or**

26 (3) If the decision reverses the imposition of the civil penalty, the escrow
27 funds will be released to the nursing home within 15 days of the decision.

28 (c) (1) A hearing on the appeal shall be held in accordance with the
29 Administrative Procedure Act, under Title 10, Subtitle 2 of the State Government Article.

30 (2) The Secretary shall have the burden of proof with respect to the
31 imposition of civil money penalties under § 19–1404 or § 19–1413.1 of this subtitle.

1 (3) A decision shall be rendered by the Office of Administrative Hearings
2 within 10 working days of the hearing.

3 (d) A nursing home is entitled to a 40% reduction in the amount of the civil money
4 penalty if it waives its right to a hearing within 30 days of the Department's order.

5 19-1408.

6 (a) (1) Subject to subsection (c) of this section, the Department shall make a
7 site visit and conduct a full survey of each licensed nursing home at least once per calendar
8 year.

9 (2) Unless otherwise required by federal law, all surveys shall be
10 unannounced.

11 (b) (1) Subject to paragraph (2) of this subsection, the Department shall
12 initiate an investigation of a nursing home complaint alleging actual harm within 10
13 business days after receiving the complaint.

14 (2) If the Department receives a complaint against a nursing home alleging
15 immediate jeopardy to a resident, the Department:

16 (i) Shall make every effort to investigate the complaint within 24
17 hours after receiving the complaint; and

18 (ii) Shall investigate the complaint not later than 48 hours after
19 receiving the complaint.

20 (c) If ownership of a licensed nursing home is transferred to a person that does
21 not own or operate another nursing home in the State at the time of the transfer, the
22 Department shall conduct:

23 (1) The first full survey of the licensed nursing home as required under
24 subsection (a) of this section within 3 months after the date of transfer; and

25 (2) An unannounced, on-site follow-up survey of the licensed nursing
26 home that covers any deficiencies noted in the full survey within 120 days after the full
27 survey was completed.

28 **(D) WITH THE CONSENT OF A UNIT OF LOCAL GOVERNMENT, THE**
29 **SECRETARY MAY DELEGATE TO THE UNIT OF LOCAL GOVERNMENT THE AUTHORITY**
30 **TO CONDUCT SITE VISITS AND FULL SURVEYS OF NURSING HOMES UNDER THIS**
31 **SECTION.**

32 19-1413.1.

1 (a) A nursing home that violates § 19–1413(2) of this subtitle is subject to a civil
2 money penalty not exceeding expenses incurred by the Office of Health Care Quality **OR,**
3 **IF THE SECRETARY HAS DELEGATED THE AUTHORITY UNDER § 19–1408(D) OF THIS**
4 **SUBTITLE, A UNIT OF LOCAL GOVERNMENT** in ensuring a smooth and orderly transition
5 of residents, including payroll expenses.

6 (b) If a civil money penalty is imposed on a nursing home under subsection (a) of
7 this section, the nursing home is subject to § 19–1406 of this subtitle.
8 19–1414.

9 The Department **OR, IF THE SECRETARY HAS DELEGATED THE AUTHORITY**
10 **UNDER § 19–1408(D) OF THIS SUBTITLE, A UNIT OF LOCAL GOVERNMENT** may review
11 financial and performance records of an applicant for a license or management firm under
12 contract with an applicant for a license to determine ability of the applicant or management
13 firm to comply with appropriate laws and regulations.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2022.