

# HOUSE BILL 774

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CF SB 665

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By: **The Speaker (By Request – Office of the Attorney General) and Delegates**  
**Alston, Bagnall, Bhandari, Chisholm, Cullison, Guzzone, Hill, Hutchinson,**  
**S. Johnson, Kaiser, Kerr, Kipke, R. Lewis, Lopez, Martinez, M. Morgan,**  
**Pena–Melnyk, Reilly, Rosenberg, Szeliga, Taveras, White, and Woods**

Introduced and read first time: February 8, 2023

Assigned to: Health and Government Operations

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 11, 2023

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

1 AN ACT concerning

2 **Assisted Living Programs – Unlicensed Programs – Resident Abuse,**  
3 **Exploitation, and Neglect**  
4 **(The Senator Delores Kelley Residents of Unlicensed Programs Protection Act)**

5 FOR the purpose of requiring the Maryland Department of Health, or ~~a designee of the~~  
6 ~~Department~~ the Office of Health Care Quality, to investigate whether residents in  
7 an assisted living program have been subject to neglect, exploitation, or ~~physical~~  
8 abuse if the assisted living program is operating without a license; subjecting certain  
9 assisted living programs operating without a license to immediate prosecution under  
10 a certain provision of law under certain circumstances; altering the factors that the  
11 State is required to consider when recommending the amount of penalty for violating  
12 a certain prohibition against operating an assisted living program without a license;  
13 authorizing certain State entities and local health officers to petition for injunctive  
14 relief against the operation of an assisted living program operating without a license;  
15 and generally relating to assisted living programs operating without a license.

16 BY repealing and reenacting, with amendments,  
17 Article – Health – General  
18 Section 19–1809  
19 Annotated Code of Maryland  
20 (2019 Replacement Volume and 2022 Supplement)

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

3 **Article – Health – General**

4 19–1809.

5 (a) (1) A person may not knowingly and willfully operate, maintain, or own an  
6 assisted living program without a license.

7 (2) A person who violates paragraph (1) of this subsection is guilty of a  
8 felony and on conviction is subject to:

9 (i) For a first offense, a fine not exceeding \$10,000 or imprisonment  
10 not exceeding 5 years or both; or

11 (ii) For a subsequent offense, a fine not exceeding \$20,000 or  
12 imprisonment not exceeding 5 years or both.

13 (3) If the Department finds A CREDIBLE ALLEGATION THAT an assisted  
14 living program ~~to be in violation of paragraph (1) of this subsection~~ IS OPERATING  
15 WITHOUT A LICENSE, the Department [shall send written notice to the program 30 days  
16 before the State files charges under this section in order to give the program an opportunity  
17 to come into compliance with licensure requirements], OR THE DEPARTMENT'S  
18 DESIGNEE OFFICE OF HEALTH CARE QUALITY, SHALL INVESTIGATE WHETHER  
19 RESIDENTS IN THE ASSISTED LIVING PROGRAM HAVE BEEN SUBJECTED TO NEGLECT  
20 , EXPLOITATION, OR PHYSICAL ABUSE.

21 (4) (I) ON RECEIPT OF A CREDIBLE ALLEGATION, OR AFTER AN  
22 INVESTIGATION THAT RESULTS IN A FINDING THAT RESIDENTS IN AN UNLICENSED  
23 ASSISTED LIVING PROGRAM HAVE BEEN SUBJECTED TO NEGLECT, EXPLOITATION,  
24 OR PHYSICAL ABUSE, THE PERSON OPERATING THE UNLICENSED PROGRAM SHALL  
25 BE SUBJECT TO IMMEDIATE PROSECUTION UNDER PARAGRAPH (2) OF THIS  
26 SUBSECTION.

27 (II) IF THE PERSON OPERATING AN UNLICENSED ASSISTED  
28 LIVING PROGRAM FAILS OR REFUSES TO COOPERATE FULLY IN AN INVESTIGATION  
29 BY THE DEPARTMENT, OR THE DEPARTMENT'S DESIGNEE OFFICE OF HEALTH  
30 CARE QUALITY, CONDUCTED UNDER PARAGRAPH (3) OF THIS SUBSECTION, THE  
31 PERSON OPERATING THE UNLICENSED ASSISTED LIVING PROGRAM SHALL BE  
32 SUBJECT TO IMMEDIATE PROSECUTION UNDER PARAGRAPH (2) OF THIS  
33 SUBSECTION.

34 (5) IF THE DEPARTMENT FINDS, AFTER AN INVESTIGATION  
35 CONDUCTED UNDER PARAGRAPH (3) OF THIS SUBSECTION, THAT THERE IS NO

1 REASON TO BELIEVE THAT RESIDENTS IN THE ASSISTED LIVING PROGRAM  
2 OPERATING WITHOUT A LICENSE HAVE BEEN SUBJECT TO ~~FINANCIAL~~  
3 EXPLOITATION, NEGLECT, OR ~~PHYSICAL~~ ABUSE:

4 (I) THE DEPARTMENT SHALL PROVIDE WRITTEN NOTICE TO  
5 THE UNLICENSED ASSISTED LIVING PROGRAM THAT THE PROGRAM SHALL COME  
6 INTO COMPLIANCE WITH LICENSURE REQUIREMENTS WITHIN 30 DAYS AFTER  
7 RECEIPT OF THE WRITTEN NOTIFICATION; AND

8 [(4)] (II) [A] THE person OPERATING THE PROGRAM may not be subject  
9 to PROSECUTION UNDER paragraph (2) of this subsection if the person has:

10 [(i)] 1. [Applied] PROMPTLY AND in good faith SUBMITTED A  
11 COMPLETE APPLICATION to the Department for an assisted living program license;

12 [(ii)] 2. Is awaiting a decision from the Department regarding the  
13 application; and

14 [(iii)] 3. Has not been denied an assisted living program license on  
15 a prior occasion.

16 [(5)] (6) In recommending the amount of the criminal penalty under  
17 paragraph (2) of this subsection, the State shall consider factors including the nature,  
18 number, and seriousness of the violations [and the ability of the assisted living program to  
19 pay the penalty].

20 (7) THE DEPARTMENT, THE ATTORNEY GENERAL, A STATE'S  
21 ATTORNEY, OR A LOCAL HEALTH OFFICER MAY PETITION A CIRCUIT COURT FOR  
22 INJUNCTIVE RELIEF AGAINST THE OPERATION OF AN ASSISTED LIVING PROGRAM  
23 OPERATING WITHOUT A LICENSE.

24 [(6)] (8) A violation of paragraph (1) of this subsection shall be a violation  
25 of the Consumer Protection Act.

26 (b) (1) (i) A person may not advertise, represent, or imply to the public that  
27 an assisted living program is authorized to provide a service that the program is not  
28 licensed, certified, or otherwise authorized by the Department to provide when the license,  
29 certificate, or authorization is required under this subtitle.

30 (ii) A person may not advertise an assisted living program in a  
31 misleading or fraudulent manner.

32 (2) (i) A person who violates paragraph (1) of this subsection is subject  
33 to a civil money penalty imposed by the Secretary not exceeding \$10,000 for each offense.

1 (ii) In setting the amount of a civil money penalty on the program  
2 under subparagraph (i) of this paragraph, the Secretary shall consider factors including the  
3 nature, number, and seriousness of the violations and the ability of the assisted living  
4 program to pay the penalty.

5 (c) (1) A person may not willfully and knowingly refer another person to an  
6 assisted living program that is operating without a license.

7 (2) A person who violates paragraph (1) of this subsection is subject to the  
8 following civil penalties:

9 (i) For a first offense, a civil penalty not exceeding \$1,000;

10 (ii) For a second offense, a civil penalty not exceeding \$2,000; or

11 (iii) For a third or subsequent offense, a civil penalty not exceeding  
12 \$3,000.

13 (3) The Secretary shall remit all civil penalties collected under this  
14 subsection to the Office of Health Care Quality for the purposes of carrying out the  
15 provisions of § 19–1813 of this subsection.

16 **(D) THE DEPARTMENT MAY ADOPT REGULATIONS TO CARRY OUT THIS**  
17 **SECTION.**

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
19 October 1, 2023.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.