

Chapter 106

(Senate Bill 974)

AN ACT concerning

State-Owned Nursing Homes – Deficiencies, Citations, and Fines – Contractor Reporting Requirements

FOR the purpose of requiring contractors operating State-owned nursing homes to promptly provide notice of certain deficiencies and enforcement actions to certain persons; requiring contractors operating State-owned nursing homes to provide certain information related to citations and fines to certain persons; requiring the Maryland Department of Health to report annually on certain information related to State-owned nursing homes that are operated by contractors; and generally relating to State-owned nursing homes.

BY repealing and reenacting, without amendments,

Article – Health – General

Section 19-1401(a), (b), (d), (g), and (h) and 19-1408(a) and (b)

Annotated Code of Maryland

(2019 Replacement Volume and 2022 Supplement)

BY repealing and reenacting, with amendments,

Article – Health – General

Section 19-1401(e)

Annotated Code of Maryland

(2019 Replacement Volume and 2022 Supplement)

BY adding to

Article – Health – General

Section 19-14C-01 and 19-14C-02 to be under the new subtitle “Subtitle 14C.
State-Owned Nursing Homes”

Annotated Code of Maryland

(2019 Replacement Volume and 2022 Supplement)

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

Article – Health – General

19-1401.

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

(b) “Actual harm deficiency” means a condition existing in a nursing home or an action or inaction by the nursing home staff that has caused physical or emotional injury

or impairment to a resident.

(d) “Deficiency” means a condition existing in a nursing home or an action or inaction by the nursing home staff that results in potential for more than minimal harm, actual harm, or serious and immediate threat to one or more residents.

(e) **(1)** “Nursing home” means a facility [(other than a facility offering domiciliary or personal care as defined in Subtitle 3 of this title) which] **THAT** offers nonacute inpatient care to patients suffering from a disease, chronic illness, condition, disability of advanced age, or terminal disease requiring maximal nursing care without continuous hospital services and who require medical services and nursing services rendered by or under the supervision of a licensed nurse together with convalescent, restorative, or rehabilitative services.

(2) “NURSING HOME” DOES NOT MEAN A FACILITY OFFERING DOMICILIARY CARE OR PERSONAL CARE AS THOSE TERMS ARE DEFINED IN § 19–301 OF THIS TITLE.

(g) “Potential for more than minimal harm deficiency” means a condition existing in a nursing home or an action or inaction by the nursing home staff that has the potential to cause actual harm to a resident.

(h) “Serious and immediate threat” means a situation in which immediate corrective action is necessary because a nursing home’s noncompliance with one or more State regulations has caused or is likely to cause serious injury, harm, impairment to, or death of a resident receiving care in the nursing home.

19–1408.

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

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

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

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

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

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

SUBTITLE 14C. STATE-OWNED NURSING HOMES.

19-14C-01.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “DEFICIENCY” HAS THE MEANING STATED IN § 19-1401 OF THIS TITLE.

(C) “MONITORING AGENCY” MEANS:

(1) THE CENTERS FOR MEDICARE AND MEDICAID SERVICES; OR

(2) THE OFFICE OF HEALTH CARE QUALITY WITHIN THE DEPARTMENT.

(D) “NURSING HOME” HAS THE MEANING STATED IN § 19-1401 OF THIS TITLE.

19-14C-02.

(A) (1) IF A STATE-OWNED NURSING HOME THAT IS OPERATED BY A CONTRACTOR RECEIVES A DEFICIENCY FROM OR IS SUBJECT TO AN ENFORCEMENT ACTION BY A MONITORING AGENCY, THE CONTRACTOR PROMPTLY SHALL PROVIDE NOTICE OF THE DEFICIENCY OR ENFORCEMENT ACTION TO:

(i) THE GOVERNOR;

(ii) THE STATE AGENCY OVERSEEING THE NURSING HOME; AND

(iii) IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE SENATE FINANCE COMMITTEE, THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, AND THE MEMBERS OF THE GENERAL ASSEMBLY WHO REPRESENT THE DISTRICT IN WHICH THE NURSING HOME IS LOCATED.

(2) WITHIN 30 DAYS AFTER A STATE-OWNED NURSING HOME THAT IS OPERATED BY A CONTRACTOR RECEIVES A CITATION OR FINE FROM A MONITORING AGENCY, THE CONTRACTOR SHALL PROVIDE TO THE GOVERNOR, THE STATE AGENCY OVERSEEING THE NURSING HOME, AND, IN ACCORDANCE WITH § 2-1257 OF

THE STATE GOVERNMENT ARTICLE, THE SENATE FINANCE COMMITTEE, THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, AND THE MEMBERS OF THE GENERAL ASSEMBLY WHO REPRESENT THE DISTRICT IN WHICH THE NURSING HOME IS LOCATED:

(I) A STATEMENT OF THE DEFICIENCIES FOUND BY THE MONITORING AGENCY;

(II) A PLAN OF CORRECTION; AND

(III) ALL COMMUNICATIONS FROM THE MONITORING AGENCY REGARDING SURVEY ACTIVITIES CONDUCTED AT THE NURSING HOME.

(B) ON OR BEFORE JANUARY 1 EACH YEAR, BEGINNING IN 2024, THE DEPARTMENT SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON ALL FEDERAL AND STATE:

(1) SURVEY ACTIVITIES CONDUCTED DURING THE IMMEDIATELY PRECEDING 12-MONTH PERIOD AT EACH STATE-OWNED NURSING HOME THAT IS OPERATED BY A CONTRACTOR; AND

(2) ENFORCEMENT ACTIONS IMPOSED DURING THE IMMEDIATELY PRECEDING 12-MONTH PERIOD ON EACH STATE-OWNED NURSING HOME THAT IS OPERATED BY A CONTRACTOR.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a ye and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, April 24, 2023.