

HOUSE BILL 1177

O2, J3

4lr1836

By: **Delegates Hill, Kaufman, Simmons, and Stein**

Introduced and read first time: February 7, 2024

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Continuing Care Retirement Communities – Subscriber Rights and Provider**
3 **Duties**

4 FOR the purpose of altering the membership of governing bodies of continuing care
5 retirement communities by increasing the number of subscribers; prohibiting a
6 provider of a continuing care retirement community from infringing on certain rights
7 of certain subscribers; providing that certain individuals, before signing a continuing
8 care agreement, are entitled to a certain visit and to receive certain information;
9 authorizing subscribers in a continuing care retirement community to take certain
10 actions and to participate in certain activities; authorizing the establishment of a
11 certain resident association under certain circumstances; requiring certain providers
12 to undertake certain actions and to provide certain information; requiring the
13 Secretary of Aging to establish a Continuing Care in a Retirement Community
14 Ombudsman in each county; and generally relating to continuing care retirement
15 communities.

16 BY repealing and reenacting, without amendments,
17 Article – Human Services
18 Section 10–101(a) and (h)
19 Annotated Code of Maryland
20 (2019 Replacement Volume and 2023 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article – Human Services
23 Section 10–427
24 Annotated Code of Maryland
25 (2019 Replacement Volume and 2023 Supplement)

26 BY adding to
27 Article – Human Services
28 Section 10–451 and 10–452

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2019 Replacement Volume and 2023 Supplement)

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

5 **Article – Human Services**

6 10–101.

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

8 (h) “Secretary” means the Secretary of Aging.

9 10–427.

10 (a) (1) If a provider has a governing body, at least [one] **THREE** of the
11 provider’s subscribers shall be [a] full and regular [member] **MEMBERS** of the governing
12 body.

13 (2) If the provider owns or operates more than three facilities in the State,
14 the governing body shall include at least one of the provider’s subscribers for every three
15 facilities in the State.

16 (3) [Subject to paragraph (4) of this subsection, a] **A** member of the
17 governing body who is selected to meet the requirements of this subsection shall be a
18 subscriber at a facility in the State and be [selected according to the same general written
19 standards and criteria used to select other members of the governing body] **ELECTED BY**
20 **THE RESIDENT ASSOCIATION OF THE FACILITY IN ACCORDANCE WITH THE BYLAWS**
21 **OF THE RESIDENT ASSOCIATION.**

22 (4) [The governing body shall confer with the resident association at each
23 of the provider’s facilities before the subscriber officially joins the governing body] **A**
24 **SUBSCRIBER MEMBER OF A GOVERNING BODY MAY REPORT ON NONCONFIDENTIAL**
25 **DELIBERATIONS, ACTIONS, AND POLICIES OF THE GOVERNING BODY TO THE**
26 **RESIDENT ASSOCIATION.**

27 (5) The Secretary may waive the requirements of this subsection for a
28 provider in the process of decertifying as a provider, if the Secretary determines that there
29 are no subscribers willing and able to serve on the governing body.

30 (b) (1) If a provider does not have a governing body, the provider shall appoint
31 a select committee of its officers or partners to meet at least twice a year with the resident
32 association at each of its facilities to address concerns of the subscribers and to ensure that
33 the opinions of subscribers are relayed to all officers or partners of the provider.

1 (2) If a facility does not have a resident association, the committee shall
2 meet with a reasonable number of representatives, not required to exceed fifteen, that the
3 subscribers elect.

4 (c) **(1) A PROVIDER MAY DESIGNATE A PORTION OF A GOVERNING BODY**
5 **MEETING TO BE CONFIDENTIAL IF THE GOVERNING BODY DISCUSSES INDIVIDUAL**
6 **PERSONNEL OR INDIVIDUAL SUBSCRIBER'S HEALTH ISSUES.**

7 **(2) A PROVIDER MAY NOT PREVENT THE ACCESS OF A SUBSCRIBER**
8 **OR A DESIGNATED REPRESENTATIVE OF A SUBSCRIBER TO A NONCONFIDENTIAL**
9 **PORTION OF A MEETING OF THE GOVERNING BODY UNLESS THE PORTION OF THE**
10 **MEETING IS CLOSED IN COMPLIANCE WITH THIS SUBSECTION OR A FEDERAL, STATE,**
11 **OR LOCAL LAW.**

12 **(3) [As determined by the provider's governing body, the] A provider shall**
13 **make available to subscribers either the nonconfidential portions of the minutes of each**
14 **meeting of the governing body or a summary of the nonconfidential portions of the minutes,**
15 **within 1 month of approval of the minutes.**

16 **10-451.**

17 **(A) A PROVIDER MAY NOT INFRINGE ON THE CIVIL LIBERTIES OF A**
18 **SUBSCRIBER THAT ARE PROTECTED BY THE UNITED STATES CONSTITUTION AND**
19 **THE MARYLAND CONSTITUTION.**

20 **(B) BEFORE AN INDIVIDUAL SIGNS A CONTINUING CARE AGREEMENT:**

21 **(1) AN INDIVIDUAL MAY VISIT A FACILITY, INCLUDING THE**
22 **AMENITIES ASSOCIATED WITH INDEPENDENT LIVING; AND**

23 **(2) A PROVIDER SHALL PROVIDE AN INDIVIDUAL A LIST WRITTEN IN**
24 **PLAIN LANGUAGE STATING THE SERVICES GUARANTEED BY A CONTINUING CARE**
25 **AGREEMENT AND SERVICES THAT ARE INCLUDED, BUT NOT GUARANTEED, BY A**
26 **CONTINUING CARE AGREEMENT.**

27 **(C) A SUBSCRIBER MAY:**

28 **(1) (I) SELECT AN INDEPENDENT LIVING APARTMENT OF THE**
29 **SUBSCRIBER'S CHOICE BASED ON THE AVAILABILITY OF LIVING APARTMENTS AND THE**
30 **SUBSCRIBER'S FINANCIAL QUALIFICATIONS; AND**

31 **(II) CHOOSE HOW TO FURNISH AN INDEPENDENT LIVING**
32 **APARTMENT, CONSISTENT WITH THE TERMS OF THE CONTINUING CARE AGREEMENT**
33 **AND APPLICABLE FIRE AND SAFETY REGULATIONS;**

1 **(2) INDIVIDUALLY OR THROUGH A DESIGNATED REPRESENTATIVE,**
2 **REFUSE MEDICATION OR TREATMENT OFFERED BY THE PROVIDER;**

3 **(3) PARTICIPATE FULLY IN DISCUSSIONS WITH THE PROVIDER**
4 **REGARDING THE NEED TO TRANSFER THE SUBSCRIBER TO AN ASSISTED LIVING**
5 **PROGRAM OR SKILLED NURSING FACILITY;**

6 **(4) WITH OR WITHOUT PARTICIPATION OF A PROVIDER, OR THE**
7 **GOVERNING BODY OF THE CONTINUING CARE FACILITY, FREELY ASSEMBLE TO**
8 **SHARE INFORMATION WITH OTHER SUBSCRIBERS OR LEARN ABOUT ISSUES FACING**
9 **THE SUBSCRIBER COMMUNITY;**

10 **(5) OPERATE INFORMAL ACTIVITIES THAT DO NOT NEGATIVELY**
11 **IMPACT OTHER SUBSCRIBERS OR REQUIRE RESIDENT ASSOCIATION FUNDS;**

12 **(6) ADVOCATE FOR A SUBSCRIBER'S OWN WELL-BEING, RIGHTS, OR**
13 **PREFERENCES REGARDING ISSUES FACING A CONTINUING CARE RETIREMENT**
14 **COMMUNITY; AND**

15 **(7) PARTICIPATE IN A RESIDENT ASSOCIATION.**

16 **(D) (1) UNLESS A RESIDENT ASSOCIATION IS IN OPERATION IN A**
17 **CONTINUING CARE RETIREMENT COMMUNITY, A SUBSCRIBER MAY ESTABLISH AND**
18 **OPERATE A RESIDENT ASSOCIATION FOR SUBSCRIBERS RESIDING IN A FACILITY.**

19 **(2) A RESIDENT ASSOCIATION SHALL REPRESENT THE INTERESTS OF**
20 **SUBSCRIBERS IN A FACILITY, INCLUDING DURING MEETINGS WITH THE GOVERNING**
21 **BODY OF A FACILITY OR PROVIDER.**

22 **(3) (I) A RESIDENT ASSOCIATION MAY COLLECT FEES OR OTHER**
23 **CONTRIBUTIONS TO MAINTAIN A RESIDENT ASSOCIATION FUND.**

24 **(II) A RESIDENT ASSOCIATION MAY USE A RESIDENT**
25 **ASSOCIATION FUND TO SUPPORT ACTIVITIES FOR SUBSCRIBERS OR ADVOCATE FOR**
26 **THE WELL-BEING, RIGHTS, AND PREFERENCES OF SUBSCRIBERS IN A FACILITY.**

27 **(E) A PROVIDER SHALL:**

28 **(1) DELIVER COMPLETE AND PROMPT FULFILLMENT OF THE**
29 **SERVICES AND TERMS SET IN A CONTINUING CARE AGREEMENT AND ANY OTHER**
30 **CONTRACT MADE WITH A SUBSCRIBER;**

1 **(2) PROVIDE THE BENEFITS OF LIVING IN CONTINUING CARE IN A**
2 **RETIREMENT COMMUNITY AND ENFORCE RULES FOR LIVING IN CONTINUING CARE**
3 **IN A RETIREMENT COMMUNITY WITHOUT PREJUDICE, REGARDLESS OF THE**
4 **SUBSCRIBER'S AGE, GENDER, SEXUAL ORIENTATION, RELIGION, RACE, ECONOMIC**
5 **STATUS, PROFESSIONAL BACKGROUND, POLITICAL AFFILIATION, ADVOCACY OF**
6 **ISSUES IN THE RETIREMENT COMMUNITY, OR INVOLVEMENT IN A RESIDENT**
7 **ASSOCIATION;**

8 **(3) CONDUCT AN ANNUAL SURVEY TO EVALUATE SUBSCRIBERS'**
9 **SATISFACTION WITH THE FULFILLMENT OF THE SERVICES AND TERMS SET IN A**
10 **CONTINUING CARE AGREEMENT AND OTHER CONTRACTS MADE WITH SUBSCRIBERS;**

11 **(4) PROVIDE A COPY OF A CONTINUING CARE AGREEMENT OR**
12 **CONTRACT SIGNED BY A SUBSCRIBER TO THE SUBSCRIBER ON REQUEST BY THE**
13 **SUBSCRIBER OR THE SUBSCRIBER'S DESIGNATED REPRESENTATIVE;**

14 **(5) EVERY 6 MONTHS, REPORT TO A SUBSCRIBER THE SIGNIFICANT**
15 **ISSUES AFFECTING THE CONTINUING CARE RETIREMENT COMMUNITY THAT AFFECT**
16 **SUBSCRIBERS' WELL-BEING OR FINANCIAL INVESTMENT IN A CONTINUING CARE**
17 **AGREEMENT, INCLUDING ISSUES THAT HAVE BEEN ADDRESSED BY SUBSCRIBERS OR**
18 **A RESIDENT ASSOCIATION SINCE THE IMMEDIATELY PRECEDING REPORT WAS**
19 **PROVIDED;**

20 **(6) (I) ANNUALLY DISCLOSE TO A SUBSCRIBER THE FINANCES OF**
21 **AN ENTITY THAT OWNS OR HAS A STAKE IN A CONTINUING CARE RETIREMENT**
22 **COMMUNITY OR FACILITY THAT A SUBSCRIBER IS PART OF; AND**

23 **(II) IF AN ENTITY OWNS OR HAS AN INTEREST IN MULTIPLE**
24 **CONTINUING CARE RETIREMENT COMMUNITIES OR FACILITIES, ANNUALLY**
25 **DISCLOSE TO A SUBSCRIBER THE FINANCES OF THE ENTITY TO A SUBSCRIBER IN**
26 **EACH CONTINUING CARE RETIREMENT COMMUNITY OR FACILITY THE ENTITY OWNS**
27 **OR HAS AN INTEREST IN;**

28 **(7) ON REQUEST, PROVIDE A REPORT WRITTEN BY A CERTIFIED**
29 **ACTUARY AFFIRMING THAT A PROVIDER HAS SUFFICIENT FUNDS TO PROVIDE FOR**
30 **THE FUTURE OF THE CONTINUING CARE RETIREMENT COMMUNITY;**

31 **(8) INFORM A SUBSCRIBER OF A PLAN TO SELL OR TRANSFER**
32 **OWNERSHIP OF A CONTINUING CARE RETIREMENT COMMUNITY OR FACILITY:**

33 **(I) IN ACCORDANCE WITH § 10-433 OF THIS SUBTITLE; OR**

1 (II) AS SOON AS POSSIBLE, IF THE SALE OR TRANSFER WILL
2 OCCUR UNDER EMERGENCY CIRCUMSTANCES;

3 (9) (I) AT LEAST 90 DAYS BEFORE CHANGING A FEE CHARGED TO A
4 SUBSCRIBER, NOTIFY THE SUBSCRIBER OF THE PLAN TO CHANGE THE FEE;

5 (II) PROVIDE AN OPPORTUNITY FOR A SUBSCRIBER TO PROVIDE
6 FEEDBACK ON THE PLANNED FEE CHANGE; AND

7 (III) RESPOND IN WRITING TO FEEDBACK FROM A SUBSCRIBER
8 REGARDING A PLANNED FEE CHANGE; AND

9 (10) (I) BEFORE IMPLEMENTING A CHANGE TO THE DELIVERY OF
10 HEALTH CARE SERVICES, FOOD SERVICES, AND FACILITIES MAINTENANCE,
11 INCLUDING STAFFING LEVELS OR STAFF CREDENTIALING, NOTIFY A SUBSCRIBER OF
12 THE PLANNED CHANGE;

13 (II) PROVIDE AN OPPORTUNITY FOR A SUBSCRIBER TO PROVIDE
14 FEEDBACK ON THE PLANNED CHANGE TO THE DELIVERY OF SERVICES; AND

15 (III) RESPOND IN WRITING TO FEEDBACK FROM A SUBSCRIBER
16 REGARDING A PLANNED CHANGE IN THE DELIVERY OF SERVICES.

17 (F) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IF A
18 SUBSCRIBER IS IN AN ASSISTED LIVING PROGRAM OR A SKILLED NURSING FACILITY,
19 A PROVIDER REGULARLY SHALL INFORM THE SUBSCRIBER'S FAMILY MEMBERS, AS
20 DESIGNATED BY THE SUBSCRIBER, ABOUT THE SUBSCRIBER'S CONDITION AND CARE
21 PLAN.

22 (2) (I) A PROVIDER MAY SET A MAXIMUM NUMBER OF FAMILY
23 MEMBERS THAT A SUBSCRIBER MAY DESIGNATE UNDER PARAGRAPH (1) OF THIS
24 SUBSECTION.

25 (II) THE MAXIMUM NUMBER OF FAMILY MEMBERS SET BY A
26 PROVIDER UNDER THIS PARAGRAPH SHALL BE NOT LESS THAN TWO FAMILY
27 MEMBERS AND AN ALTERNATE FAMILY MEMBER TO BE INFORMED IF ONE OF THE
28 OTHER TWO FAMILY MEMBERS IS UNAVAILABLE.

29 **10-452.**

30 (A) IN THIS SECTION, "OMBUDSMAN" MEANS A CONTINUING CARE IN A
31 RETIREMENT COMMUNITY OMBUDSMAN.

1 **(B) IF APPLICABLE, THE SECRETARY SHALL APPOINT A CONTINUING CARE**
2 **IN A RETIREMENT COMMUNITY OMBUDSMAN FOR EACH COUNTY.**

3 **(C) THE OMBUDSMAN SHALL MONITOR THE RIGHTS AND PROTECTIONS**
4 **PROVIDED IN THIS PART FOR A SUBSCRIBER OR A POTENTIAL SUBSCRIBER.**

5 **(D) SUBSCRIBERS AND FAMILY MEMBERS OF SUBSCRIBERS MAY REPORT**
6 **COMPLAINTS, COMPLIMENTS, AND COMMENTS TO THE OMBUDSMAN FOR THE**
7 **COUNTY WHERE THE SUBSCRIBER'S RETIREMENT COMMUNITY FACILITY IS**
8 **LOCATED.**

9 **(E) A COMPLAINT, COMPLIMENT, OR COMMENT MADE TO THE OMBUDSMAN**
10 **IS A PUBLIC RECORD SUBJECT TO TITLE 4 OF THE GENERAL PROVISIONS ARTICLE.**

11 **(F) THE SECRETARY SHALL ADOPT REGULATIONS TO IMPLEMENT THIS**
12 **SECTION.**

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 2024.