

HOUSE BILL 1002

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CF SB 493

By: **Delegates Lopez, Foley, Kaufman, and Wims**

Introduced and read first time: February 6, 2026

Assigned to: Health

A BILL ENTITLED

1 AN ACT concerning

2 **Nursing Facilities – Involuntary Discharge or Transfer**

3 FOR the purpose of prohibiting certain facilities from involuntarily transferring or
4 discharging a resident to certain housing or before receiving certain confirmations;
5 altering the information required to be included in a certain notice or updated notice;
6 requiring that a certain notice or updated notice be provided to certain residents at
7 least a certain period of time before an involuntary discharge or transfer; requiring
8 that a post discharge plan contain certain information; and generally relating to
9 nursing facilities and involuntary discharges and transfers.

10 BY repealing and reenacting, with amendments,
11 Article – Health – General
12 Section 19–345 and 19–345.1
13 Annotated Code of Maryland
14 (2023 Replacement Volume and 2025 Supplement)

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

17 **Article – Health – General**

18 19–345.

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

21 (1) The transfer or discharge is necessary for the resident’s welfare and the
22 resident’s needs cannot be met in the facility;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

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

7 (5) The facility ceases to operate.

8 **(b) A RESIDENT OF A FACILITY THAT IS TRANSFERRED OR DISCHARGED**
9 **FROM THE FACILITY INVOLUNTARILY MAY NOT BE TRANSFERRED OR DISCHARGED:**

10 **(1) TO A LOCATION OTHER THAN THE LOCATION IDENTIFIED IN THE**
11 **NOTICE REQUIRED UNDER § 19-345.1(B)(3) OF THIS SUBTITLE, SUCH AS A HOTEL,**
12 **SHELTER, OR OTHER TEMPORARY HOUSING;**

13 **(2) BEFORE THE FACILITY TO WHICH THE RESIDENT IS TO BE**
14 **TRANSFERRED HAS CONFIRMED THAT:**

15 **(I) THE RESIDENT MAY BE TRANSFERRED TO THE FACILITY;**
16 **AND**

17 **(II) THE FACILITY IS PREPARED TO ACCEPT THE RESIDENT.**

18 **(C) (1) A Medicaid certified facility may not:**

19 (i) Include in the admission contract of a resident any requirement
20 that, to stay at the facility, the resident will be required to pay for any period of time or
21 amount of money as a private pay resident for any period when the resident is eligible for
22 Medicaid benefits; or

23 (ii) Transfer or discharge a resident involuntarily because the
24 resident is a Medicaid benefits recipient.

25 (2) (i) Except as provided in subparagraph (ii) of this paragraph, a
26 Medicaid certified facility is presumed to be transferring or discharging a resident in
27 violation of this subsection, if the resident is or becomes eligible for Medicaid benefits.

28 (ii) A Medicaid certified facility is not presumed to be transferring or
29 discharging a resident in violation of this subsection for transferring or discharging a
30 resident for nonpayment for services while the resident was ineligible for assistance under
31 the medical assistance program.

32 19-345.1.

1 (a) (1) A facility shall provide the resident with written notice of:

2 [(1)] (I) Any proposed discharge or transfer; and

3 [(2)] (II) The opportunity for a hearing in accordance with the provisions
4 of this section before the discharge or transfer.

5 (2) THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS
6 SUBSECTION SHALL INCLUDE, AT A MINIMUM, THE INFORMATION LISTED UNDER
7 SUBSECTION (B) OF THIS SECTION.

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

10 (1) Notice of the intended discharge or transfer of the resident, including
11 the proposed date of the intended discharge or transfer, which may change as a result of
12 an appeal or the discharge planning process;

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

14 (3) The location to which the resident will be discharged or transferred,
15 which may change as a result of an appeal or the discharge planning process;

16 (4) The name of the social worker or other professionally qualified staff,
17 which may change during the discharge planning process, who:

18 (i) Is designated to provide social services and discharge planning
19 services to the resident in connection with the discharge or transfer; and

20 (ii) Will be responsible for the development of the post discharge
21 plan of care under subsection (g) of this section;

22 (5) A proposed date within 10 days after the date of the notice for a meeting
23 between the resident, the resident's representative, and facility staff to develop the post
24 discharge plan of care under subsection (g) of this section;

25 (6) (I) The right of the resident to request a hearing;

26 (II) THE NAME, MAILING ADDRESS, E-MAIL ADDRESS, AND
27 TELEPHONE NUMBER OF THE ENTITY TO WHICH THE RESIDENT MUST SUBMIT A
28 REQUEST FOR A HEARING; AND

29 (III) INSTRUCTIONS FOR OBTAINING, COMPLETING, AND
30 SUBMITTING A REQUEST FOR A HEARING;

1 (7) The right of the resident to consult with any lawyer the resident
2 chooses;

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

6 (9) (I) The availability of the Long-Term Care Ombudsman Program to
7 assist the resident; AND

8 (II) THE MAILING ADDRESS, E-MAIL ADDRESS, AND TELEPHONE
9 NUMBER OF THE LONG-TERM CARE OMBUDSMAN PROGRAM;

10 (10) (I) THE AVAILABILITY OF DISABILITY RIGHTS MARYLAND TO
11 ASSIST RESIDENTS WITH INTELLECTUAL OR DEVELOPMENTAL DISABILITIES,
12 MENTAL DISORDERS, AND RELATED DISORDERS; AND

13 (II) THE MAILING ADDRESS, E-MAIL ADDRESS, AND TELEPHONE
14 NUMBER OF DISABILITY RIGHTS MARYLAND; and

15 [(10)] (11) The provisions of this section.

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

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

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

22 (i) The resident;

23 (ii) The next of kin, guardian, or any other individual known to have
24 acted as the resident's representative, if any;

25 (iii) The Long-Term Care Ombudsman; and

26 (iv) The Department.

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

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

- 1 1. The basis for the discharge is nonpayment; and
2 2. The resident continues to reside in the facility while the
3 appeal is pending.

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

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

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

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

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

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

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

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

18 (e) The facility shall provide the written notice required in subsection (a) of this
19 section as soon as practicable before discharge or transfer if[:

20 (1) An] AN emergency exists and health or safety of the resident or other
21 residents would be placed in imminent and serious jeopardy if the resident were not
22 transferred or discharged from the facility as soon as possible[; or

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

24 (f) **(1)** If the information in the notice provided under subsection (c) of this
25 section changes before the discharge or transfer, the facility shall provide the changes to
26 the recipients of the notice as soon as practicable after the new information becomes
27 available.

28 **(2)** **IF AN UPDATED NOTICE IS PROVIDED UNDER THIS SUBSECTION,**
29 **THE RESIDENT MAY NOT BE DISCHARGED OR TRANSFERRED FOR AT LEAST 30 DAYS**
30 **AFTER THE UPDATED NOTICE HAS BEEN PROVIDED TO THE RESIDENT.**

1 **(3) AN UPDATED NOTICE PROVIDED UNDER THIS SUBSECTION SHALL**
2 **INDICATE ANY DIFFERENCES BETWEEN THE PRIOR NOTICE AND THE UPDATED**
3 **NOTICE.**

4 (g) (1) Before any discharge or transfer and subject to paragraphs (4) and (5)
5 of this subsection, a facility shall develop a post discharge plan of care for the resident to
6 assist the resident with adjusting to the resident's new living environment and that:

7 (i) Addresses the resident's post discharge goals of care and
8 treatment preferences; [and]

9 (ii) Identifies each of the resident's reasonably anticipated medical
10 and basic needs after discharge or transfer and establishes a plan for meeting those needs;

11 **(III) IDENTIFIES THE ADDRESS AT WHICH THE RESIDENT WILL**
12 **RESIDE POST DISCHARGE; AND**

13 **(IV) IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE**
14 **SECRETARY, PROVIDES A SAFE, SECURE, AND SUSTAINABLE ENVIRONMENT FOR**
15 **THE RESIDENT.**

16 (2) The facility shall designate a social worker or other professionally
17 qualified staff member to coordinate the development of the resident's post discharge plan
18 of care.

19 (3) The facility shall, if possible, meet with the resident and, with the
20 resident's consent, the resident's representative within 10 days after providing the notice
21 required under subsection (a) of this section to discuss the post discharge plan of care for
22 the resident.

23 (4) (i) The resident's post discharge plan of care shall be developed with
24 the participation of the resident and, with the resident's consent, the resident's
25 representative.

26 (ii) If the post discharge plan of care was developed without the
27 participation of the resident or the resident's representative, the facility shall include in
28 the resident's medical record an explanation of why the resident or the resident's
29 representative did not participate.

30 (5) The resident's post discharge plan of care shall be developed in
31 consultation with:

32 (i) The resident's attending physician;

33 (ii) A registered nurse responsible for the care of the resident; and

1 (iii) Any other appropriate staff or professional involved with
2 meeting the resident's medical needs.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2026.