

## Chapter 25

**(Senate Bill 493)**

AN ACT concerning

**Nursing Facilities – Involuntary Discharge or Transfer**

FOR the purpose of prohibiting certain facilities from involuntarily transferring or discharging a resident to certain housing or before receiving certain confirmations; altering the information required to be included in a certain notice or ~~updated~~ new notice; requiring that a certain notice or ~~updated~~ new notice be provided to certain residents at least a certain period of time before an involuntary discharge or transfer; establishing time requirements that apply to the discharge or transfer of a resident if a new notice of involuntary discharge or transfer of the resident is provided; requiring that a post discharge plan contain certain information; and generally relating to nursing facilities and involuntary discharges and transfers.

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

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

**Article – Health – General**

19–345.

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

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

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

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

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

(5) The facility ceases to operate.

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

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

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

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

**AND**

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

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

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

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

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

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

19–345.1.

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

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

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

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

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

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

(2) Each reason for the discharge or transfer;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) The resident;

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

(iii) The Long-Term Care Ombudsman; and

(iv) The Department.

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

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

1. The basis for the discharge is nonpayment; and

2. The resident continues to reside in the facility while the appeal is pending.

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

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

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

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

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

(i) Is not a decision of the Secretary;

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

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

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

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

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

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

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

**(2) IF A NEW NOTICE IS PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE FOLLOWING TIME REQUIREMENTS APPLY TO THE DISCHARGE OR TRANSFER OF THE RESIDENT:**

**(I) THE RESIDENT MAY NOT BE DISCHARGED OR TRANSFERRED FOR AT LEAST 30 DAYS AFTER THE NEW NOTICE HAS BEEN PROVIDED TO THE RESIDENT IF THE NEW NOTICE IS PROVIDED BEFORE:**

**1. THE EXPIRATION OF THE TIME PERIOD REQUIRED UNDER SUBSECTION (C) OF THIS SECTION; OR**

**2. THE DATE OF AN ORDER OF DISCHARGE ISSUED BY AN ADMINISTRATIVE LAW JUDGE UNDER SUBSECTION (D) OF THIS SECTION; AND**

**(II) IF THE NEW NOTICE IS PROVIDED AFTER A DATE DESCRIBED UNDER ITEM (I) OF THIS PARAGRAPH:**

**1. IF THE ORIGINAL NOTICE INDICATED A DISCHARGE LOCATION THAT WAS A LICENSED SKILLED NURSING FACILITY AND THE NEW NOTICE CHANGES THE DATE OF DISCHARGE OR TRANSFER ONLY, THE RESIDENT MAY BE DISCHARGED ON THE EARLIEST DATE THAT A BED IS AVAILABLE AT THE FACILITY;**

**2. IF THE NEW NOTICE CHANGES THE LOCATION OF DISCHARGE OR TRANSFER FROM A LICENSED SKILLED NURSING FACILITY TO A DIFFERENT LICENSED SKILLED NURSING FACILITY, THE RESIDENT MAY NOT BE DISCHARGED OR TRANSFERRED FOR AT LEAST 7 DAYS AFTER THE NEW NOTICE HAS BEEN PROVIDED TO THE RESIDENT; AND**

**3. IF THE NEW NOTICE CHANGES THE LOCATION OF DISCHARGE OR TRANSFER FROM A LICENSED SKILLED NURSING FACILITY TO A LOCATION THAT IS NOT A LICENSED SKILLED NURSING FACILITY BUT IS OTHERWISE DETERMINED TO BE A SAFE DISCHARGE LOCATION UNDER AN APPROPRIATE CLINICAL EVALUATION AND AS SET FORTH IN THE POST DISCHARGE PLAN OF CARE, THE RESIDENT MAY NOT BE DISCHARGED OR TRANSFERRED FOR AT LEAST 30 DAYS AFTER THE NEW NOTICE HAS BEEN PROVIDED TO THE RESIDENT.**

**(3) ~~AN UPDATED~~ A NEW NOTICE PROVIDED UNDER THIS SUBSECTION SHALL ~~INDICATE~~:**

**(I) INDICATE ANY DIFFERENCES BETWEEN THE PRIOR NOTICE AND THE ~~UPDATED~~ NEW NOTICE; AND**

**(II) INCLUDE A NOTICE OF THE RIGHT TO APPEAL THE NEW NOTICE:**

**1. FOR ANY DISCHARGE OR TRANSFER DESCRIBED UNDER PARAGRAPH (2)(I) OF THIS SUBSECTION; OR**

**2. FOR A DISCHARGE OR TRANSFER DESCRIBED UNDER PARAGRAPH (2)(II)3 OF THIS SUBSECTION, IF THE UNDERLYING BASIS OF THE ORIGINAL NOTICE HAS CHANGED.**

**(4) FOR A DISCHARGE OR TRANSFER DESCRIBED UNDER PARAGRAPH (2)(II)1 OR 2 OF THIS SUBSECTION, A NEW NOTICE IS NOT REQUIRED TO INCLUDE A NOTICE OF THE RIGHT TO APPEAL THE NEW NOTICE.**

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

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

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

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

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

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

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

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

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

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

(i) The resident's attending physician;

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

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

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

**Approved by the Governor, April 14, 2026.**