SB0204 Written Testimony-ALP Alzheimer's Specialty

Uploaded by: Ames, Randi

Position: FAV

Disability Rights Maryland

Empowerment. Integration. Equality.

1500 Union Ave., Suite 2000, Baltimore, MD 21211
Phone: 410-727-6352 | Fax: 410-727-6389
www.DisabilityRightsMD.org

SENATE FINANCE COMMITTEE
SENATE BILL 0204: HEALTH CARE FACILITIES – ASSISTED LIVING PROGRAMS – MEMORY CARE AND ALZHEIMER'S DISEASE UNIT REGULATIONS

FEBRUARY 11, 2021

POSITION: SUPPORT

Thank you for the opportunity to provide testimony on Senate Bill 0204: Health Care Facilities – Assisted Living Programs – Memory Care and Alzheimer's Disease Unit Regulations. Disability Rights Maryland (DRM – formerly Maryland Disability Law Center) is the federally designated Protection and Advocacy agency in Maryland, mandated to advance the civil rights of people with disabilities. DRM works to increase opportunities for Marylanders with disabilities to be integrated in their communities, live independently and access high-quality, affordable health care.

Maryland's regulations governing Assisted Living Programs (ALP) have not been substantively updated since 2008.[1] The current regulation governing Alzheimer's special care units at ALPs do not require specific training or program services to meet the needs of residents with Alzheimer's or memory care needs.[2] Rather, ALPs are given total discretion in developing their specialty units, including what particular training their staff receives and what services they provide.

The lack of reasonable standards for ALPs with Alzheimer's and Memory Care specialty units creates the risk of inconsistency in care and services at ALPs. The only staff qualifications that may address the needs of residents with memory care issues are the general requirements of 5 hours of staff training on cognitive impairment and mental illness within the first 90 days of employment and 2 hours of annual continued education.[3] However, this requirement applies to all ALP staff members that provide personal care services. Training on cognitive impairments and mental illness cover a wide array of diagnosis and residents needs, and is not specific to the ALPs that hold themselves out as having Alzheimer's special care units.

As of 2014, estimates suggested that up to 70% of assisted living residents experience a diagnosable form of mild to severe Alzheimer's disease or another dementia diagnosis.[4] At least half of these residents exhibit symptomology such as depression, challenging behaviors, such as wandering and inappropriate aggression, and disrupted thinking processes, including visual and

[1] 35:26 Md. R. 2249, effective December 29, 2008.
[2] COMAR 10.07.14.30
[3] COMAR 10.07.14.19
[4] National Center for Assisted Living. (2014). Resident profile Retrieved January 21, 2015, from http://www.ahcancal.org/ncal/resources/Pages/ResidentProfile.aspx

auditory hallucinations.[5] Regulations are needed to ensure ALPs are meeting the unique needs of assisted living residents diagnosed with Alzheimer's or requiring memory care.

For many nursing home residents with Alzheimer's, dementia or memory care needs, their only option for a safe discharge to the community is to an ALP. Requiring the Maryland Department of Health to develop regulations that will establish standards for ALPs with Alzheimer's and Memory Care specialty care units will help to ensure that people with these diagnoses receive appropriate care to meet their needs, avoid unnecessary institutionalization and support residents to successfully age in place in the community.

As written, this bill does not create any new financial responsibilities or care standards for ALPs. Rather, this bill only requires OHCQ, the agency obligated to oversee ALPs, to develop regulations to establish reasonable standards for ALPs with Alzheimer's and Memory Care specialty units. Through the proposed regulation process OHCQ will receive comments from ALPs and stakeholders to ensure any regulations, developed as a result of this bill, meet the needs of residents, but are not overly burdensome. Consistency in care for people with Alzheimer's, dementia or memory care needs may allow more people to transition out of institutional settings to live in the community and may lower costs related to unnecessary hospitalization and institutionalization. Furthermore, establishing standards for ALPs will ensure ALPs are able to meet the needs of their residents, avoid unnecessary discharges of residents, and ensure consistent care when ALP residents do transfer between ALPs.

For these reasons, DRM strongly supports Senate Bill 0204.

Respectfully,

Randi A. Ames, Esq.
Staff Attorney
Disability Rights Maryland
1500 Union Ave., Suite 2000
Baltimore, MD 21211
Direct: 443-692-2506
RandiA@DisabilityRightsmd.org

[5] Leroi I., Samus Q. M., Rosenblatt A., Onyike C. U., Brandt J., Baker A. S, … Lyketsos C. (2007). A comparison of small and large assisted living facilities for the diagnosis and care of dementia: The Maryland Assisted Living Study. *International Journal of Geriatric Psychiatry*, 22, 224–232.

SB204BeidleTestimony.pdf
Uploaded by: Beidle, Pamela
Position: FAV

PAMELA G. BEIDLE
Legislative District 32
Anne Arundel County

Finance Committee

Vice Chair
Executive Nominations Committee

James Senate Office Building
11 Bladen Street, Room 202
Annapolis, Maryland 21401
410-841-3593 · 301-858-3593
800-492-7122 *Ext.* 3593
Pamela.Beidle@senate.state.md.us

THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

February 11, 2021

SB 204
Health Care Facilities – Assisted Living Programs
Memory Care and Alzheimer's Disease Unit Regulations

Chairman Kelley, Vice Chair Feldmen and Members of the Committee;

Thank you for the opportunity to present SB204, Health Care Facilities – Assisted Living Programs – Memory Care and Alzheimer's Disease Unit Regulations.

Dementia and Alzheimers Disease affects 5.7 million Americans, one every 65 seconds. One in ten people over the age of 65 are affected—the most common type of dementia is Alzheimer's Disease, also known as AD. There are approximately 1700 Assisted Living facilities in Maryland, with 88 of them have designated Memory Care units. Significant additional fees are charged for these units; families placing their loved ones in these special care units should be assured that they receive the appropriate care needed for dementia disease.

One thing important to note is that the State Government Article, Section 10-130 – 10-139 requires that all regulations in Maryland must be reviewed every 8 years; this requirement was updated in 2001. The regulations for Memory Care units are included in the Assisted Living Regulations; **the current Assisted Living regulations were last updated in 2008** by the Office of Health Care Quality (OHCQ). The OHCQ began working on the updated regulations in 2015 and released a draft to advocates and industry for review. After reviewing the many comments, the OHCQ proposed another draft in 2016. This is 2021 and this process has not been completed, it has been **12 years** since the regulations were updated - they are four years late.

SB 204 is an attempt to have the Memory Care Special Care Units regulation updated. The regulations proposed in the bill are not nearly as demanding or extensive as the proposed regulations that are sitting on the shelf. You will hear from industry that they cannot handle any new proposed regulation because they are dealing with COVID and vaccines however the proposed regulations are the basic services that a family should expect.

SB 204 lays out five (5) requirements for assisted living facilities that advertise as "Memory Care Units:"

- Staff training requirements for staff that work with dementia patients,
- Staffing pattern requirements adequate to meet waking and nonwaking hours,
- Appropriate frequency and type of activities for residents, so important now due to covid isolation,

- Procedures for nighttime monitoring,
- Admission and discharge criteria.

Over the interim, I served on the Oversight Committee for Nursing Homes and Assisted Living facilities and on the legislative sub-committee. This legislation was supported by the legislative sub-committee however, the bill was never presented to the full committee for a vote.

SB 204 would not be necessary if the Office of Health Care Quality can complete the regulations offered in 2015 and 2016. These were very complete regulations, and while it is good to bring the stakeholders to the table, in this instance the industry has stopped progress.

I have heard that Dr. Patricia Nay, from the Office of Health Care Quality, can have these regulations completed by December 31, 2022, I am trying to confirm that this can be accomplished, however I not been able to speak with Dr. Nay directly.

If the entire package of Assisted Living regulations can be completed by December 31, 2022, that would be acceptable, if not, we need the work to start this year and be completed by December 31, 2022, families deserve to have the Memory Care Special unit regulations updated.

Thank you for your consideration of SB 204 and I urge the committee to move this bill with a favorable report.

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Position: FAV

VIRGINIA I. JONES ALZHEIMER'S DISEASE AND RELATED DISORDERS COUNCIL

February 11, 2021

The Honorable Delores G. Kelley
Chair, Senate Finance Committee
3 East, Miller Senate Office Building
Annapolis, Maryland 21401

RE: Senate Bill 204--Health Care Facilities - Assisted Living Programs - Memory Care and Alzheimer's Disease Unit Regulations - Letter of Support

Dear Chair Kelley and Committee Members:

The Virginia I. Jones Alzheimer's Disease and Related Disorders Council (the Council) is submitting this letter of support for Senate Bill 204 (SB 204) titled "Health Care Facilities - Assisted Living Programs - Memory Care and Alzheimer's Disease Unit Regulations." SB 204 requires the Maryland Department of Health (MDH) to establish specific standards governing memory care and Alzheimer's disease units in assisted living programs, including certain training requirements, certain staffing pattern requirements, certain activity requirements, certain admissions and discharge criteria, and certain other procedures, and that require compliance by assisted living programs with the standards.

The Council extends its support for SB 204, as it promotes high quality and care standards in assisted living, memory care, and Alzheimer's disease and related disorder (ADRD) units. SB 204 also presents a significant opportunity for service delivery improvement, as the demand for and offering of assisted living programs with memory care and ADRD units is on the rise. As a result, these specialized programs are serving increasing numbers of vulnerable individuals who, in many circumstances, also have high levels of frailty and medical acuity. Residents cared for in memory care and ADRD units have unique, multidimensional care needs, which places higher and new demands on assisted living providers. Best practice recommendations for dementia care highlight a number of effective disease and symptom management strategies, that, when delivered systematically, can make significant differences for patient outcomes as well as alleviate caregiver burden. These include—but are not limited to—effective non-pharmacological management of behavioral symptoms (e.g., agitation, aggression, care resistance, depression, anxiety, apathy); provision of adequate supervision; promotion of a safe living environment (e.g., fall and wander-risk management); and provision of meaningful activity engagement.

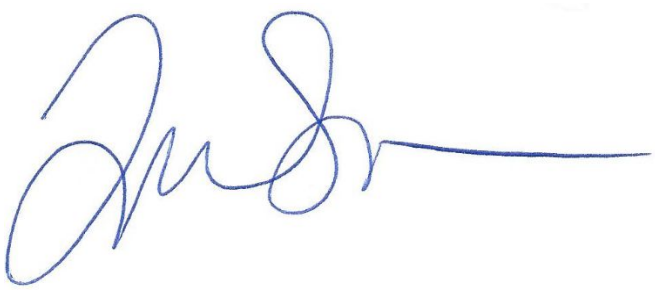
In accordance with SB 204, the Council agrees that specific standards should be established to govern memory care and ADRD units in assisted living programs, including:

- Staff training requirements, including the number of hours and content of dementia-specific training requirement for special care unit administrators and staff;
- Staff pattern requirements;
- Appropriate frequency and type of activities for residents based on their capabilities and preferences;
- Procedures that are beyond those historically provided in assisted living programs (e.g. frequency of nighttime bed checks to prevent dangerous events); and
- Clear admissions and discharge criteria and procedures, including the appropriateness of initial placement and continued residence in the special care unit.

Further, the Council agrees that memory care and ADRD programs offered in assisted living should comply with these minimum standards.

The Council respectfully urges this Committee to approve SB 204 as an important quality improvement measure for memory care units, which have become a prominent long-term setting of care for large numbers of vulnerable persons with dementia. In doing so, this bill will aid in advancing assisted living provider capabilities and competency as it relates to dementia care, increase accountability to assisted living consumers, and ultimately improve resident experiences, care quality, and outcomes.

Sincerely,



Quincy M. Samus, PhD, MS, Chair, Virginia I. Jones Alzheimer's Disease and Related Disorders Council

SB 204 Health Care Facilities Assisted Living Prog

Uploaded by: Bresnahan, Tammy

Position: FAV

200 St. Paul Place, #2510 | Baltimore, MD 21202
1-866-542-8163 | Fax: 410-895-0269 | TTY: 1-877-434-7598
aarp.org/md | mdaarp@aarp.org | twitter: @aarpmaryland
facebook.com/aarpmd

SB 204 Health Care Facilities – Assisted Living Programs – Memory Care and Alzheimer's Disease Unit Regulations
Favorable
Senate Finance Committee
February 11, 2021

Good afternoon Chairwoman Kelley and members of the Senate Finance Committee. I am Tammy Bresnahan. I am the Director of Advocacy for AARP Maryland. AARP Maryland is one of the largest membership-based organizations in the state, encompassing over 860,000 members. AARP MD overwhelmingly supports **SB 204 Health Care Facilities – Assisted Living Programs – Memory Care and Alzheimer's Disease Unit Regulations.** We thank Senator Beidel for sponsoring this important legislation.

AARP is a nonpartisan, nonprofit, nationwide organization that helps people turn their goals and dreams into real possibilities, strengthens communities and fights for the issues that matter most to families such as healthcare, employment and income security, retirement planning, affordable utilities, and protection from financial abuse.

SB 204 requires the Maryland Department of Health to issue regulations for memory care units at assisted living facilities, and to address specific areas which include admissions, discharge, staff training and procedures to reduce social isolations among residents. Assisted living regulations haven't been updated since at least 2008.

For proper context, it is important to note that America's assisted living facilities (ALFs) are not regulated by the federal government; and therefore there is no federal statutory oversight or regulatory program that is analogous to those governing our nation's nursing home facilities, despite many that are participating in Medicaid programs (which do have a federal regulatory component, due to joint funding by individual states and the federal government).

Maryland's current 1,554 ALFs are only fully-regulated by and accountable to the State (unlike Maryland's 230 nursing homes, which are fully regulated by the State and the federal government). The onus to ensure adequate protection and safety of a large segment of Maryland's most vulnerable citizens rests solely within the resources of the State.

Memory care units are specialized residential facilities designed to serve the needs of aging adults with Alzheimer's disease, dementia and other cognitive issues. Staff members need be trained to help with daily living activities and to help residents manage dementia symptoms such as combativeness, sundown syndrome and wandering.

Memory care might be provided at stand-alone facilities or in dedicated wings, sometimes called special care units, at assisted living facilities and nursing homes. They generally need and have a higher staff-to-resident ratio and place a greater emphasis on security, using things such as alarmed doors, elevator codes and tracking devices to prevent wandering.

Just for background, the average cost for memory care is about $5,400 a month, according to Dementia Care Central, an information resource for dementia caregivers that received seed money from the National Institute on Aging. For assisted living facilities, there currently is no nationally set guideline for an appropriate staff-to-patient ratio. Currently, assisted living facilities determine the “sufficient” ratio to best meet the needs of their program and residents.

In 2005, The Maryland Office of Health Care Quality (OHCQ), in its report entitled Maryland’s Assisted Living Evaluation noted, “For over a decade or more, it is widely-known in the industry that the residents in assisted living facilities consistently present acuity levels that were previously only seen among nursing home residents.” In 2005, up to two-thirds of residents in assisted living programs have moderate to severe dementia and less than half receive adequate treatment for this condition.

Given the enormous variability in regulations, and services provided by assisted living, consumers are unsure what to expect in different types of facilities and communities they call home. While skilled-nursing facilities are fairly well defined, there is more variation in the definition of assisted living and residential care which provide different levels of service depending on what is authorized or required by the state. The availability of assisted living/residential care and supportive housing is growing in response to consumer demand and increased public funding for services in such settings. Licensing and regulation of assisted living and residential care occurs at the state level.

AARP MD believes that policy makers should pass the laws that implement various approaches to promoting service quality and protecting the rights of consumers and updating and promulgating regulations is one way to do hold assisted living facilities accountable to the residents they serve. AARP MD also believes that states can establish licensing requirements that set various provider standards, monitor service quality, and protect residents’ rights.

And finally AARP believes that states should enact legislation that requires the state to update its assisted living facilities regulations that reflect the current conditions in those facilities.

For these reasons, AARP MD respectfully ask the Senate Finance Committee for a favorable report on SB 204. If you have questions or comments, please contact Tammy Bresnahan at tbresnahan@aarp.org or at 410-302-8451. Thank you!

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Uploaded by: Colchamiro, Eric
Position: FAV

alzheimer's association®
1850 York Road, Suite D
Timonium, MD 21093

Testimony of the Alzheimer's Association Greater Maryland and National Capital Area Chapters
SB 204 - Health Care Facilities – Assisted Living Programs – Memory Care and Alzheimer's Disease Unit Regulations
Position: Favorable

Chair Kelley and Vice Chair Feldman,
My name is Eric Colchamiro, Director of Government Affairs for the Alzheimer's Association in Maryland, and here today to ask for your support of SB 204. This legislation requires the Maryland Department of Health (MDH) to promulgate specific additional regulations governing memory care units at Assisted Living facilities.

I want to acknowledge Maryland's long-term care provider organizations. During this pandemic, these organizations and their members have dealt with unprecedented challenges and costs, delivered hundreds of thousands of pieces of PPE, and dealt with frequently shifting guidance from MDH. Government funding has been provided to stabilize their operations; more so to nursing homes, and to a lesser extent, assisted living facilities. Yet as we now have the hope of potentially four vaccines, amidst a pandemic that has disproportionately impacted our long-term care industry, we must move forward stabilizing facilities and protecting their residents.

There are 1672 Assisted living facilities in our state; 91 percent of them are under 50 beds. Yet it is also important to remember that—according to data from MDH's Office of Healthcare Quality (OHCQ)—**the 9 percent of facilities over 50 beds have the majority of Maryland's assisted living population**.

The legislation today puts forward requirements solely for the state's 88 special care units, among those 1672, which house some of our most vulnerable Marylanders with Alzheimer's or other forms of dementia. A "special care unit" is defined in statute as a secured or segregated special unit or program, specifically designed for individuals with dementia, including a probable or confirmed diagnosis of Alzheimer's disease.

The residents in these units (also known as "memory care units") with Alzheimer's or other forms of dementia present unique challenges; 95 percent of them have one or more chronic condition. As their dementia progresses, these residents are unable to eat, dress, or bathe without assistance. Over time, people with Alzheimer's will lose the ability to use words and may communicate their needs through behavior. It is important that the staff who care for them have training and understand the behavioral and psychological symptoms of dementia; they need to understand how to manage increase aggression, how to manage confusion, how to manage sudden sadness.

This legislation presents a major public health issue involving the safety, protection, and quality of care for older people living with dementia. The only section in COMAR specifically on special care units at assisted living facilities is 10.14.17.30; it requires a significant amount of information to be disclosed, but it does not codify what is required. We have heard from many families that the only distinction for a memory care unit at an assisted living facility is that it is a locked door for people with dementia.

Assisted living facilities and nursing homes both serve residents with complex medical conditions; yet **assisted living facilities lack the same protections to ensure quality care;**

- special care units at nursing homes require a separate request and approval from OHCQ and the Department's Office of Capital Planning, Budgeting and Engineering Services; assisted living facilities do it just as part of the licensing process; [COMAR 10.07.02.23.A]

- Nursing homes require a more detailed process for the special care unit resident assessment, responsive to changes in the individual's condition; [COMAR 10.07.02.25.B.(2)(c)]

- Nursing homes require a quality assurance plan for their units [COMAR 10.07.02.23.C.(5)]

- Even the disclosure form—the one area that special care units at assisted living facilities specifically have—is more specific at nursing homes, which require disclosure to OHCQ about the involvement of families and family support programs; [COMAR 10.07.02.25.B.(2) (g)]

If you look at the 2015 draft Assisted living facility regulations, you will see OHCQ put forward additional protections which begins to regulate assisted living facilities as a medical environment. The 2015 draft proposed: a new role of a memory care coordinator; 30 hours of training requirements for the coordinator; and an additional 20 hours of training specifically for memory care staff. The industry, in their comments on this draft section to protect memory care patients, strongly opposed and said that this could not be administered.

OHCQ put forward a second section on memory care protections, outlining: an enhanced service plan for individuals with Alzheimer's and dementia, including their risks and activities that benefit them; and a direct care staff ratio, so that there was at least one direct care staff on each shift for every eight residents. The industry opposed these protections as duplicative.

OHCQ put forward a third section on added protections for memory care units. This section outlined appropriate care and services for memory care patients, including the need to document and address those patients at risk of frequent falls. Industry opposed these protections as redundant.

Despite these objections, OHCQ maintained these provisions in their 2016 second draft, addressing many of the same areas in this legislation before you today. They recognized the need for added protections for memory care units, and also added specific new protections for admissions and discharge, and activities which reduce social isolation. Unfortunately, they were never codified into law, and without legislation they can be negotiated out.

This legislation aims to take a moderate approach. The bill sponsors did not put forward a bill which licenses memory care units, akin to over 20 other states. The bill intentionally does not put forward specific numbers for areas like a staff-to-patient ratio, like OHCQ did in the draft regulations. Instead, this legislation flags a number of concrete areas, and final decisions have ultimately been left to OHCQ's traditional, collaborative regulatory process. The only requirement here is that people with dementia in assisted living facilities need more from our state. **We need to codify changes which provide added protections for the 88 memory care units which house patients with Alzheimer's or other forms of dementia.**

This legislation is necessary. Assisted living facilities treat residents with complex medical conditions in these special care units, and costs can be over $10,000 per month, yet they do not have a framework which holds them specifically accountable for better care. One Alzheimer's advocate shared a story with me about how her mom was on the floor for hours in an assisted living facility memory care unit, because there were no specific added protections for nighttime bed checks, and her mom's voice was too soft to be heard. **It is only with legislation that we can ensure that a new framework is enacted**, and added protections are put into place.

I ask for your help today to move this bill forward. I urge a favorable report.

APPENDIX 1 – 2015/2016 MDH DRAFT PROPOSED ADDITIONAL MEMORY CARE PROTECTIONS

SOURCE: "COMAR 10.07.14 Assisted Living Programs, AL DRAFT (6/9/2015)".
https://health.maryland.gov/ohcq/docs/Regulations%20Pages/10.07.14Draft6_19_15_NoTextUnchanged.docx

PLEASE NOTE:
I have highlighted the new memory-care specific areas from the draft regulations, and *put the new language in italics*, put LifeSpan's response in green, and put OHCQ's decision on the comment, in blue, which is reflected in their 2nd draft (accessible here).

- section 26 for memory care - outlining 1) a new proposed role of a memory care coordinator; 2) training for the coordinator; and 3) required additional training specifically for memory care staff;

A. All Alzheimer's/dementia special care units shall have a coordinator who is solely responsible for the coordination of the Alzheimer's/dementia special care unit. The coordinator shall:

(1) Be a licensed or degreed health care professional, other than the delegating nurse; and

(2) Have completed a course, consisting of a minimum of 30 hours of training, by a nationally recognized Alzheimer's/dementia caregiving resource or association; or

(3) Have substantially equivalent training and experience.

B. The coordinator shall, in collaboration with the manager and delegating nurse/case manager, coordinate as needed outside psychiatric and psychosocial services to assist with behavior modification plans.

C. Other Staff.

(1) In addition to the trainings described in Regulation .14 of this chapter, staff shall:

(a) Complete a minimum of 20 hours of documented initial training on the care of residents with Alzheimer's disease and related dementia prior to providing direct resident care; and

(b) Complete a minimum of 8 hours of documented annual training on Alzheimer's disease and related dementia;

(2) Direct care staff shall not have housekeeping, laundry, food preparation, or maintenance duties as primary responsibilities; and
(3) Certified medication technicians shall not be responsible for any direct care activities while administering medications during the assigned times

The inclusion of this new unit and its requirements are strongly opposed by LifeSpan and cannot be administered by the programs. Most troubling are the requirements for and education levels needed of a coordinator, the number of training hours for both the coordinator and other staff (page 114) and the prohibition against using a universal worker (page 115)

no change

- new section 27 for memory care, outlining 1) an enhanced service plan for individuals with Alzheimer's and dementia, including their risks and activities that benefit them; and 2) a direct care staff ratio;

.27 Alzheimer's/Dementia Special Care

A. The manager of a facility which provides care to one or more individuals with dementia, including a probable or confirmed diagnosis of Alzheimer's disease or a related disorder, shall ensure the requirements of this regulation are met.

B. An orientation manual with policies and procedures specific to Alzheimer's/dementia special care shall be maintained on-site and accessible to all staff.

C. The manager, or designee, shall ensure that an enhanced service plan is developed for all residents with Alzheimer's/dementia. The service plan shall, at a minimum, include specific interventions that address:

(1) Persistent or repetitive behaviors that affect the health and well-being of the resident or present a danger to the resident or other individuals;

(2) Environment, safety, and security;

(3) Behavior management;

(4) Staffing; and

(5) Life enrichment activities.

D. Delegating nurse/case manager.

(1) For residents receiving psychotropic or behavior-modifying medications, the delegating nurse/case manager during nursing assessments shall:

(a) Assess the resident's functional level;

(b) Identify any potential adverse effects of the medication or medications; and

(c) Consult with the authorized prescriber or pharmacist, as necessary, to determine if medication dosages should be modified or discontinued.

(2) During nursing assessments the delegating nurse/case manager shall evaluate residents with persistent or repetitive behaviors that affect the health and well-being of the resident or present a danger to the resident or other individuals to determine:

(a) A baseline of the intensity, duration, and frequency of the behavior;

(b) Antecedent behaviors and activities;

(c) Recent changes or risk factors in the resident's life;

(d) Environmental factors such as time of day, staff involved, and noise levels;

(e) The resident's medical status;

(f) Alternative, structured activities or behaviors that have been successful or unsuccessful in the past; and

(g) The effectiveness of behavioral management approaches.

(3) The results of the enhanced assessments described in §D(1) and (2) of this regulation shall be reflected in the resident's service plan.

E. The manager and delegating nurse/case manager shall coordinate outside psychiatric and psychosocial services, if appropriate, to assist with behavior modification plans.

F. When the resident census includes eight or more residents with Alzheimer's/dementia, there shall be a minimum of one direct care staff on each shift for every eight residents.

As above, LifeSpan opposed the creation of this new regulation and believes that it is duplicative given that the requirements contained in this section should be captured in the resident assessment tool and the nursing assessments and then captured in the service plan, similar to any other diagnosis. LifeSpan also is very concerned with the decision to use a ratio for direct care staff and believes further discussion must take place on this issue (page 119). OHCQ, itself, has questioned the use of ratios and, in other health care provider industries, has moved away from implementing ratios in favor of staffing to the needs of the residents. Lastly, on page 117, the reference to "probable or confirm diagnosis of Alzheimer's disease or related disorder" must be deleted. *** It is important to note that LifeSpan strongly agrees that changes are necessary to the training requirements for Alzheimer's, dementia and behavioral health. However, these changes should be focused on the training content, how the trainings are performed, the specific training needs of the residents, etc. LifeSpan has been meeting with representatives from the Alzheimer's Association and the Mental Health Association on this issue

no change

- New Section 27.H - Special Care Needs/Monitoring and Oversight

H. Special Care Needs – Monitoring and Oversight

(1) Every resident shall receive appropriate care, services, and oversight in accordance with:

(a) State and federal guidelines;

(b) Accepted standards of nursing and medical practice; and

(c) The resident-specific waiver provisions of Regulation .21 of this chapter.

(2) Resident service plans shall reflect increased monitoring and oversight, as appropriate, and as needed by residents with, but not limited to, the following special care needs:

(a) Frequent falls;

(b) Pressure ulcer care;

(c) Oxygen therapy;

(d) Enteral feedings;

(e) Foley care;

(f) Ostomy care;

(g) Therapeutic medication levels;

(h) Mental illness or psychiatric care; and

(i) Diabetic management.

(3) At a minimum, appropriate care includes:

(a) Using proper infection control techniques to prevent infection and cross contamination;

(b) Providing care and services to promote healing;

(c) Ensuring that staff have demonstrated competency to the delegating nurse in the provision of care that meets the special care needs of the resident; and

(d) Notifying, when incidents occur and there is a need for medical or nursing evaluation and treatment, the:

(i) Resident, or if appropriate, the resident representative;

(ii) Program's delegating nurse; and

(iii) Resident's health care practitioner, if appropriate.

delete Section (H) on special care needs as redundant.

No Change

APPENDIX 2: MDH July 2017 Exemption Request

- Note: The first three pages (of 54) have been inserted below, so that the Committee can see the specific exemption request
    - Document Source: Personal Communication with Kathleen Kennedy, Senior Policy Analyst | Co-counsel, AELR Committee, August 24, 2020.

REGULATORY REVIEW AND EVALUATION ACT:

EVALUATION REPORTS DUE JULY 1, 2017 FOR:

Subtitle 05 FREESTANDING AMBULATORY SURGICAL FACILITIES
Subtitle 07 HOSPITALS
Subtitle 08 HEALTH FACILITIES GRANTS

SUBMITTED BY:

Maryland Department of Health
Office of Regulation and Policy Coordination
201 W. Preston Street, Room 512
Baltimore, Maryland 21201
Phone: (410) 767-6499
Email: dhmh.regs@maryland.gov

EVALUATION REPORTS

Subtitle 05 FREESTANDING AMBULATORY CARE FACILITIES
10.05.05 Freestanding Ambulatory Surgical Facilities

Subtitle 07 HOSPITALS
10.07.01 Acute General Hospitals and Special Hospitals
10.07.02 Comprehensive Care Facilities and Extended Care Facilities
10.07.06 Hospital Patient Safety Program
10.07.07 Nursing Referral Service Agencies
10.07.08 Freestanding Medical Facilities
10.07.09 Residents' Bill of Rights: Comprehensive Care Facilities and Extended Care Facilities
10.07.10 Home Health Agencies
10.07.11 Health Maintenance Organizations
10.07.12 Health Care Facilities Within Correctional Institutions
10.07.17 Limited Service Hospital
10.07.18 Comprehensive Rehabilitation Facilities
10.07.21 Hospice Care Programs

Subtitle 08 HEALTH FACILITIES GRANTS
10.08.01 Construction Funds For Public and Nonprofit Nursing Homes
10.08.02 Construction Funds For Public & Nonprofit Community Mental Health, Addiction, & DD Fac.
10.08.03 Construction Funds for Public and Nonprofit Adult Day Care Centers
10.08.04 Construction Funds for Public and Nonprofit Assisted Living Facilities
10.08.05 Construction Funds for Federally Qualified Health Centers
10.08.06 Construction Funds for Conversion of Nursing Facilities

EXEMPTIONS REQUESTED

In accordance with State Government Article, §10-132-1, Annotated Code of Maryland, the Secretary has certified to the Governor and the AELR Committee that a review of the following chapters would not be effective or cost-effective and therefore are exempt from the review process based on the fact that they were either initially adopted (IA), comprehensively amended (CA) during the preceding 8 years, or Federally mandated (FM):

Subtitle 05 FREESTANDING AMBULATORY CARE FACILITIES

10.05.01 General Requirements	CA 2/27/17 & 3-13-17
10.05.02 Freestanding Birthing Centers	CA 2/15/16
10.05.03 Freestanding Major Medical Equipment Facilities	CA 2/27/17
10.05.04 Freestanding Kidney Dialysis Centers	CA 2/18/13

Subtitle 07 HOSPITALS

10.07.03 Health Care Staff Agencies	CA 9/15/14
10.07.04 Res. Treatment Centers for Emotionally Disturbed Children & Adolescents	CA 5/22/17

10.07.05 Residential Service Agencies	CA 5/1/12
10.07.13 Forensic Residential Centers (FRCs)	IA 1/26/09
10.07.14 Assisted Living Programs	CA 12/29/08
10.07.15 License Fee Schedule for Hospitals and Related Institutions	CA 8/29/16
10.07.16 Limited Private Inpatient Facilities	IA 12/10/15
10.07.20 Intermediate Care Facilities for Individuals with Intellectual Disabilities...(ICF/IID)	CA 1/20/14
10.07.22 Hospice Care Programs: Hospice House Requirements	IA 6/10/13

CHAPTERS THAT ARE VACANT / TRANSFERRED

Subtitle 07 HOSPITALS

10.07.19 VACANT	Transferred to Title 31 Maryland Insurance Administration – COMAR 31.10.21

SB 204.pdf
Uploaded by: Ellis, Stevanne
Position: FAV

Legislation: SB 204 Health Care Facilities – Assisted Living Programs – Memory Care and Alzheimer's Disease Unit Regulations

From: Stevanne Ellis, State Long-Term Care Ombudsman
stevanne.ellis@maryland.gov
(410) 767- 2161

Position: Support

Date: February 9, 2021

This is the testimony of the State Long-Term Care Ombudsman, which is required to be independent from the Maryland Department of Aging. This testimony does not reflect a position being taken by the Maryland Department of Aging.

As Maryland's State Long-Term Care Ombudsman, I am pleased to offer this letter of support for SB 204 Health Care Facilities – Assisted Living Programs – Memory Care and Alzheimer's Disease Unit Regulations.

Individualized person-centered care is critical for all residents in assisted living facilities, but even more so for individuals with dementia residing in dementia units. These residents often have significant and profound cognitive deficits that require staff that have a higher level of training, expertise in dementia (all types), time and patience to anticipate the needs of residents, and to provide a high quality of care for those that live in dementia units.

This bill requires regulations to be developed to address the needs of residents in these units as well addressing staffing and training requirements. Residents deserve activities and care provided in a dementia unit that has minimum standards that are specific to dementia and not just how they are different than the rest of the building. The current regulations are not specific enough and do not describe how dementia care should be provided. I recommend that each person reading my testimony should review the assisted living COMAR to look at the current regulations, and decide for themselves if the current regulations are sufficient to ensure the quality of life and quality of care for an individual with dementia.

When visiting dementia units, I have noticed that there are activities listed on the calendar from morning until the afternoon. On several visits, I have noticed that residents are sitting around watching TV without interaction from staff. On the activities calendar, the activity was listed as social hour or coffee talk. There was no staff member facilitating an activity, no interaction with staff members, and residents sitting around watching television. This activity may be different than what is offered in the other part of the facility, but it is not an activity specific to an individual with dementia. This activity does not address social isolation needs which require staff interaction, care, and support.

Currently there is not a minimum staffing ratio required for an assisted living facility or a dementia unit within an assisted living facility. Caregivers in these facilities often have multiple jobs within the facility and are not required to have a geriatric nursing assistant license. Having a minimum staffing ratio will help ensure that caregivers assigned to the dementia unit will be dedicated to providing direct care to residents including the consideration for checking on residents during the night. The staff on the dementia unit should be awake during the night regardless of the plan of care for each resident. This is currently not a requirement of caregivers in assisted living facilities unless the need for awake staff is indicated in the resident's service plan.

This bill also covers discharge planning. Currently residents in assisted living facilities do not have the right to appeal a discharge letter and can be discharged for any reason. Additional regulations must be put in place to protect the rights of residents receiving a 30 day discharge notice. Residents or their legal resident representative must receive the notice and have these additional protections. In addition, because of the complex needs of individuals with dementia, discharge planning must be person-centered and often takes more time and planning because of issues related to cognition and behavior. If the individual resides on a unit with a good model for care that has specific goals and treatment options related to dementia and the current population residing in the unit as well as staff that are well-trained who understand and anticipate the needs of the resident, discharge can at times be avoided.

In summary, the current regulations need to be made more specific to address the needs and care of individuals with dementia. I urge you to support SB 204 Health Care Facilities – Assisted Living Programs – Memory Care and Alzheimer's Disease Unit Regulations.

SB204 Healthcare Facilities Assisted Living Progra

Uploaded by: Frey, Leslie

Position: FAV

COMMISSION ON AGING

February 9, 2021

The Honorable Delores G. Kelley, Chair
Senate Finance Committee
Miller Senate Office Building, 3 East Wing
11 Bladen Street
Annapolis, Maryland 21401

Dear Senator Kelley,

On behalf of the Montgomery Commission on Aging (CoA), this memorandum supports SB 204, Health Care Facilities – Assisted Living Programs – Memory Care and Alzheimer's Disease Unit Regulations, which requires that the Maryland Department of Health promulgate specific standards for governing memory care and Alzheimer's disease units in Assisted Living Programs.

The Montgomery County Commission on Aging (CoA) is authorized by the Older Americans Act, P.L. 116-131, and was established by Montgomery County in 1974 to advise County government on the needs, interests and issues of Older Adult residents, and to advocate on their behalf at the local, state and national levels.

The Commission firmly believes that the standards enumerated in this proposed legislation are absolutely necessary to ensure quality of care for the vulnerable residents served in these programs. We note that the standards under SB 204 are very basic standards that one would expect of any program serving this population. It is somewhat surprising that these standards are not already requirements given that according to current regulations, assisted living residents have the right to be treated with consideration and respect, with full recognition of their human dignity and individuality (COMAR 10.07.14.35). One wonders how memory care and Alzheimer's disease units in Assisted Living Programs can successfully maintain this essential right without dementia-specific training of the staff caring for these residents, as required under this Bill.

Other specific standards under this Bill are equally basic. The Bill requires that the Assisted Living Program have an adequate direct care staff and nursing staff ratio to meet their residents' needs, and that it has appropriate frequency and types of activities for the residents. Clearly, adequate staffing and a full complement of activities are fundamental in the care of these residents.

Finally, the Bill requires that those Assisted Living Programs that claim to have specialized memory care and Alzheimer's disease units support their claim of enhanced expertise with enhanced procedures such as increased frequency of nighttime bed checks to prevent dangerous events among residents. Since Alzheimer's Disease often affects sleep patterns, these residents often get out of bed during the night. Increased bed checks clearly are needed.

Again, the CoA supports SB 204, and we ask the Committee for a favorable report. We thank you for your consideration.

Sincerely,

Barbara Selter, Chair

Cc: Members of Senate Finance Committee
Montgomery County Delegation
Senator Pamela Beidle

SB204_FAV_AileenKlein.pdf
Uploaded by: Jones, Mary
Position: FAV

Testimony of Aileen Klein
132 Winding Rose Drive
Rockville, MD 20850

Good afternoon

Thank you for allowing me to tell you why it is so important to have separate regulations for dementia residents living within assisted living facilities.

People with dementia are more similar to nursing home residents than they are to AL residents. The difference is that many are physically healthy, but as a result of their cognitive issues and loss of language skills they are totally dependent on others for their daily tasks of bathing, dressing, toileting or eating. They need a great deal of care and protection due to their level of mental impairment which can vary from day to day, or even hour to hour. Sometimes they may seem lucid and a minute later, confused and disoriented. Unlike nursing patients who are usually grateful for the care, sometimes dementia residents can be aggressive, insulting (due to loss of filter). For these reasons, all caregivers need special training if they are to survive and to properly attend to the needs of these once productive, now special-needs individuals.

My mother began living in an AL facility which provides both AL and memory care facility in 2013. In 2017 she was transferred to the memory care floor. She is almost 94 and still going strong. We are very fortunate that she is able to afford an excellent facility. Such facilities in Maryland usually cost between $7,000 and $15,000 per month. My mother has forgotten how to do many things, including answering her phone. The ringing sound is now meaningless to her. Similarly, the pendant alarm that she wore in AL , is no longer useful. As a result, if she forgets she needs help going to the bathroom at night and gets out of bed and falls, she has no means of getting help. As we age, even our voices become weaker, so when she cries out, no one is able to hear. This could result in painful hours on the floor unattended. Therefore, frequent regular, documented nighttime bed checks are needed for dementia patients. This needs to be mandated by state law.

We had an incident a few years ago where a resident was ill and her daughter was taking a shift watching her overnight. Suddenly her mother died. The daughter had no idea what to do. She went into the hallway and called out for help. No one appeared, which was very traumatic for her as you can imagine. It turned out that one caregiver was on the other side of the floor helping another resident with toileting and the other was on a break. At times both caregivers on duty will be needed to assist a resident in the bathroom. This suggests a distinct need for increased nighttime staff.

Why do I prefer a facility that has both AL and memory care? Two reasons: first, moving a parent into a “home” is traumatic and very difficult for both my mother and me. If she developed dementia, I would have to move her again. The ensuing disorientation and depression would be unbearable for me and unkind to her. Second, a mixed facility offers many more options for everyday interaction and activities. Pre-pandemic my mother would attend Jeopardy, word games (she is still very bright), discussion groups, etc. with the AL residents. Some days she could only listen; many times, she would participate. The activities in memory care only facilities are limited - in great part due to the dearth of people participating in any one thing.

In closing I would implore you to create special regulations for memory care residents in mixed assisted living facilities. This is greatly needed since, when issuing various proclamations of testing and visitation this past year, the Governor omitted this category of residents. The facilities did not follow the

guidelines of nursing homes, nor should they have, but we really needed different guidelines from those of AL.

SB204_FAV_AnneAriosa.pdf
Uploaded by: Jones, Mary
Position: FAV

Testimony of Anne Ariosa, advocate
1617 Alston Rd, Towson, MD 21204

My name is Anne. I have a loved one who lives in an assisted living facility. She has been diagnosed with the onset of dementia.

In my experience, I have felt that once my loved one was diagnosed with dementia, her rights were no longer a consideration in her care. I understand that with this disease of dementia, there are many stages, and each person can experience different levels. I feel that once my loved one was labeled, she no longer had a voice. Her choices were taken away by the Geriatric Nursing Assistant (GNA), nurse, and the facility's policies and practices and not geared toward Person-Centered Care.

Right to Person-Centered Care. I have always fought to have my loved one viewed as an individual. If she gets dehydrated or has the start of a urinary tract infection (UTI), she develops certain behaviors that I recognize will lead to a medical crisis. I tell every new or temporary nurse that unfamiliar with my loved one: "My loved one does not get a temperature when she has a UTI. My loved one cannot tell you that it burns when she urines." At the onset of her UTI it is imparative that my olved one recieves medication.

Medication distribution is a challenging topic. The Resident has the right to refuse medications. At any time, my loved one might refuse her medication. The medical technician will walk away without giving her the needed medications. Without these medications, her temperament and behavior will change, spiraling down a long path away from her base-line status, resulting in a long, painful way back to regain her base-line status and a struggle to get her medications regulated until that happens. On the path to "recovery," I am told that her condition is the progression of dementia, which so far has never been the case.

In researching a career as a certified nursing assistant (CNA), I was amazed to find out that, Residents Rights were first and foremost. Why are Residents Rights not put into practice, especially the Rights of Residents who have a memory care diagnosis?

Since the beginning of the pandemic, I have not monitored my loved ones medications as I used to. With the restrictions of not allowing family members to visit their loved ones long term care facilities, residents suffer physically and mentally.

Written testimony SB 204 mjones.pdf
Uploaded by: Jones, Mary
Position: FAV

Senate Bill 204 – Health Care Facilities – Assisted Living Programs – Memory Care and Alzheimer's Disease Unit Regulations

Written testimony by Mary R. Jones *– former nursing home Social Worker, former staff of the Baltimore County Long Term Care Ombudsman Program and former care partner to her spouse (who had a diagnosis of Lewy Body Dementia).* ***Position - support***

I have twenty plus years of combined professional and personal experience related to the care of persons with dementia including direct interaction with and advocacy for persons residing in Assisted Living Memory Care Units. As an Ombudsman, I had extensive experience interacting with staff and management of assisted living facilities to promote resident's rights and assist with problem resolution. I believe I have a unique perspective for your consideration. I urge you to consider and support this proposed legislation on behalf of assisted living residents, staff and management. Please consider the impact on resident's well-being, staff preparation (resulting reduction in frustration) and positive outcomes for management (customer satisfaction, reduction in crises, cost savings due to staff retention).

Residents with memory issues have unique needs best served by staff adequately prepared to provide treatment, care and services. Preparation begins with dementia-specific training. The outcomes of untrained and ill-prepared staff are problematic at least and catastrophic at most. In my experience, unprepared staff result in staff frustration and an increase in negative behaviors by the residents. The worst outcomes are resident abuse and/or neglect. Staff require a special understanding of persons with dementia – this is not "typical" care. For management, turn-over of staff increases as staff frustration increases and customer satisfaction suffers.

Staffing levels are paramount to meet the intense individual care needs of residents with memory issues. Even with adequate training, care ultimately suffers without sufficient staffing patterns to provide the intense level of personal needs. In my experience, inadequate staffing patterns also correlate with high staff turnover. Care of persons with dementia requires time and patience. One area of need specific to those with memory issues is night-time oversight to prevent resident to resident abuse. This is impossible without adequate numbers of people to provide care.

Each person with dementia requires a person-centered care plan that includes activities to promote their highest level of well-being. Residents engaged in activities of personal interest appropriate for adults with memory issues are more likely to be content and less likely to engage in difficult or problematic "behaviors". The recent world-wide epidemic caused decreased socialization which increased the need for additional attention to resident engagement. Every person requires interaction and socialization. This is possibly more important for those with memory issues. Engagement in activities should include social interaction in the safest manner which requires a staff person dedicated to identifying individual needs and available resources.

Admission and discharge are particularly difficult for persons with memory issues. At the time of admission, adequate assessment in addition to communication with persons in the life of the resident familiar with their individual patterns of daily living and specific needs should become part of a pre-admission service plan. To ensure that staff are adequately prepared to care for the new resident, the information should be shared in a timely manner. Discharge criteria and planning should be specific and communicated both at admission and throughout the time of residence on the memory care unit.

SB 204 Md Legal Aid Testimony FAV.pdf
Uploaded by: Legal Aid, Maryland
Position: FAV

MARYLAND LEGAL AID

Advancing Human Rights and Justice for All

STATEWIDE ADVOCACY SUPPORT UNIT

Cornelia Bright Gordon, Esq.
Director of Advocacy for Administrative Law
(410) 951-7728
cbgordon@mdlab.org

Gregory Countess, Esq.
Director of Advocacy for Housing & Community Economic Development
(410) 951-7687
gcountess@mdlab.org

Anthony H. Davis, II, Esq.
Director of Advocacy for Consumer Law
(410) 951-7703
adavis@mdlab.org

Erica I. LeMon, Esq.
Director of Advocacy for Children's Rights
(410) 951-7648
elemon@mdlab.org

Bobbie Steyer, Esq.
Director of Advocacy for Family Law
(410) 951-7737
bsteyer@mdlab.org

Julianne Kelly Tarver, Esq.
Director
Pro Bono Program
(410) 951-7642
jkelly@mdlab.org

Meaghan McDermott, Esq.
Director
Community Lawyering Initiative
(410) 951-7635
mmcdermott@mdlab.org

EXECUTIVE STAFF

Wilhelm H. Joseph, Jr., Esq.
Executive Director

Stuart O. Simms, Esq.
Chief Counsel

Gustava E. Taler, Esq.
Chief Operating Officer

Administrative Offices
500 East Lexington Street
Baltimore, MD 21202
(410) 951-7777
(800) 999-8904
(410) 951-7778 (Fax)

www.mdlab.org
01.2021

February 9, 2021

Honorable Delores G. Kelley
Chairperson, Senate Finance Committee
Miller Senate Office Building
Annapolis, MD 21401

RE: **Maryland Legal Aid's Testimony in Support of Senate Bill 204 - Assisted Living Programs: Memory Care and Alzheimer's disease Unit Regulations**

Dear Chairman Kelley and Members of the Finance Committee:

Thank you for the opportunity to provide testimony on this important bill. Maryland Legal Aid (MLA) is a non-profit law firm that provides free legal services in civil matters to the State's low-income residents, including abused and neglected children, nursing home residents, and veterans. MLA's Long Term Care Assistance Project provides advice, assistance, and representation to older adults and persons with disabilities throughout the State. Maryland Legal Aid strongly supports SB 204 and asks that this committee give it a favorable report.

This letter serves as notice that Alle Andresen, Esq. will testify on behalf of Maryland Legal Aid at Senator Pamela G. Beidle's request. This Bill will establish regulatory standards of care in Memory Care and Alzheimer's disease Units in licensed Assisted Living Facilities.

Individuals living with dementia residing in Memory Care and Alzheimer's disease Units in Assisted Living Facilities have unique needs and require specialized care. The regulatory standards governing these facilities should reflect those needs. Residents with conditions that affect memory loss frequently receive inappropriate treatment by providers. SB 204 will, for the first time, establish standards of care, precisely elaborate discharge criteria and staff training requirements that will benefit the residents' health and safety, and enhance staff skills necessary for the appropriate care for people living with dementia.

The COVID-19 pandemic has brought increased attention to this issue. Visitation limitations and prohibitions have been in place since March 2020. Now, residents of Memory Care Units are more reliant on facility staff than ever before. Family and friends currently encounter strict limitations on visitation and the supplementation of facility-provided care and associated mental stimulation for their loved ones. Also, family and friends currently experience a drastic reduction in their ability to advocate for loved ones in care. Understaffed facilities

negatively impact residents' care and quality of life, and undertrained staff cannot properly evaluate and care for the residents. Many residents with dementia and other memory-related diseases do not receive the care they need. Unfortunately, many residents cannot advocate for themselves.

MLA's clients would directly benefit from the changes proposed in SB 204. For example, one previous MLA client was living with Parkinson's induced dementia. He was stable and well managed at a Nursing Home. However, when the nursing home discharged him to an Assisted Living Facility, the staff were not trained to evaluate and care for a person experiencing dementia. Our client's condition decompensated, and ultimately he was found wandering the streets. His condition became reduced so rapidly that he went from living in an appropriate, least restrictive environment to one that required stabilization in the most restrictive environment possible—an inpatient unit at a mental health hospital. This series of unfortunate events could have been avoided if the Assisted Living Facility staff was adequately trained and prepared to care for a resident suffering from a memory-related disease.

The standards this Bill seeks to establish will ensure that Assisted Living Facilities provide appropriate care that meets the unique needs of residents in dementia-related disease units. Requiring specialized training for staff working in these units will ensure their ability to deliver the appropriate care needed by residents with memory issues. The establishment of staffing requirements will promote residents' care, health, and well-being. The creation of admission and discharge criteria will protect these vulnerable residents from inappropriate discharge and promote and protect their health and well-being. MLA **strongly supports SB 204 and urges this committee to give it a favorable report.**

/s/ Alle M. Andresen

Alle M. Andresen, Esq.
Staff Attorney, Long Term Care Assistance Project
Maryland Legal Aid

MaCCRA - Support - Senate Bill 204 - Health Care F

Uploaded by: MacKay, Ann

Position: FAV

Maryland Continuing Care Residents Association

Protecting the Future of Continuing Care Residents

The Voice of Continuing Care Residents at Annapolis

SUBJECT: Senate Bill 204 - Health Care Facilities – Assisted Living Programs – Memory Care and Alzheimer's Disease Unit Regulations

COMMITTEE: Senate Finance Committee
The Honorable Delores Kelley, Chair

DATE: Thursday February 11, 2021

POSITION: **FAVORABLE**

The **Maryland Continuing Care Residents Association (MaCCRA)** is a not-for-profit organization representing the residents in continuing care retirement communities (CCRCs). Maryland has over 18,000 older adults living in CCRCs. The principal purpose of MaCCRA is to protect and enhance the rights and financial security of current and future residents while maintaining the viability of the providers whose interests are frequently the same as their residents. MaCCRA SUPPORTS efforts to:

- Enhance: Transparency, Accountability, Financial Security; and
- Preserve existing protections in law and regulation for current and future CCRC residents statewide.

On behalf of the Maryland Continuing Care Residents Association, we support Senate Bill 204.

We support the concept of standards for memory care in assisted living. We do understand that in order to improve quality of care and allow the consumer to make choices about services there needs to be some standards to compare facility services.

There are many differences between a true memory care unit and assisted living. There needs to be a way for family members and older persons to differentiate between assisted living facilities and those that truly offer memory care. If a facility advertised memory care, then it should provide a standard of memory care. Special training and programming are required to truly meet the needs of people with Alzheimer's disease and related disorders.

The existing Virginia I. Jones Alzheimer's Disease and Related Disorders Council plan could have a role as they developed a state plan in 2012 and are in process of updating that plan. The Maryland demographer should be consulted to identify the growing need for this type of care.

For these reasons we support Senate Bill 204 and ask for a Favorable report.

For further information please contact: Ann MacKay, President
Maryland Continuing Care Residents Association c/o maccrastate@gmail.com

SB204_FAVORABLE_Marylanders for Patient Rights.pdf
Uploaded by: Palmisano, Anna
Position: FAV

Marylanders for Patient Rights - FAVORABLE SB 204

Chair Delores Kelley
Senate Finance Committee
Miller Senate Office Building, 3 East Wing
11 Bladen St., Annapolis, MD 21401

Dear Chair Kelley,
On behalf of Marylanders for Patient Rights, I am writing in **SUPPORT OF SB 204,** Memory Care and Alzheimer's Disease Unit Regulation. As a patient advocate, and as a person whose family has been affected by this debilitating disease, I appreciate the opportunity to comment on this legislation. Patients with Alzheimer's and other forms of dementia are among our most vulnerable citizens.

SB 204 provides much needed standards of care in assisted living programs for those with dementia and other memory impairments, including staff training requirements. This bill will ensure that all those in assisted living who suffer from dementia will be afforded the needed level of care by qualified providers and provided with appropriate activities to reduce isolation whenever possible.

I'd like to share a personal story. My family friend suffered from dementia the last three years of her life, and I was her medical power of attorney, involved in all aspects of her health care. When my friend was a child, she survived the bombing of Britain (known as The Blitz) by the Nazis in World War II, and she was one of the kindest and strongest people I have ever known.

I often asked the assisted living facility and caregivers what kind of training they had received for working with those with dementia. The answer was always perfunctory—they probably had received a little training when they were first hired, sometimes years ago. I have learned from personal experience how complex and changeable the behaviors of a person with Alzheimer's may be, sometimes verging into paranoid psychosis. The average caregiver will not be prepared to handle the variety of situations presented without thoughtful and rigorous training protocols.

I urge your committee to return a FAVORABLE report on SB 204 and provide the standards of care and training in assisted living programs needed to protect those vulnerable Marylanders who suffer from dementia and memory impairment.

Thank you,

Anna Palmisano

Anna Palmisano, Ph.D.
Marylanders for Patient Rights
palmscience@verizon.net

Lucia F. Paris ALZ Train Testimony.pdf
Uploaded by: Paris, Lucia
Position: FAV

Good afternoon Chair Kelley and Vice Chair Feldman.

My name is Lucia Paris, and I am in support of SB204. Over the last fifteen years I've worked in assisted living and memory care communities in Maryland.

I am passionate about this legislation because one of the biggest challenges is the lack of properly trained individuals qualified to work with adults living with dementia.

My father, who was diagnosed with vascular dementia, lived in an assisted living community in Frederick. Due to the lack of trained and sufficient staff I became his fulltime primary caregiver.

For the last eight years I served as a certified dementia educator where my role involved training staff in assisted living and specifically memory care units, according to the Maryland state requirements. Every state carries their own set of regulations. Some are vague and do not follow up to ensure guidelines are being met. Many times, the only requirement is documentation. The trainers are not required to be certified, and can be anyone who has worked in a healthcare related field for 3 years (no mention of dementia).

The current requirements in Maryland are 5 hours training within 90 days of hire and 2 hours annually thereafter. This may sound sufficient, but with the perplexity of the disease process, staff turnover, the challenges of staff accountability and the lack of oversee from the state, there is much room for improvement. Improved regulations must specifically be in place for memory units which house some of our most vulnerable Marylanders.

Due to different variables, however, many times training never happens. The consequences due to lack of training can be detrimental to the resident and the care staff. One example I recall well was when a staff member kept disagreeing with a resident with dementia. The resident became very upset, lost control of his emotions, grabbed the staff person by her hair, lost his balance and then fell on top of her. As an educator this is very frustrating to witness to say the least, knowing it could have been prevented.

Improved guidelines, which were proposed for memory care units but never put into law, matter because:

1. Dementia has a complicated multi-faceted set of symptoms that continuously change and are unique to each individual. The range of symptoms involve impaired thinking, memory loss and inability to communicate, as well as a host of physical and pathological symptoms. With over 400 types of dementia, care staff needs to be trained and understand the importance of approach and engagement, how to communicate, recognize status change and have ability to adjust as needed.

2. The costs of assisted living and memory care are not covered by Medicare. The monthly out of pocket starts at $5,000 and often times can reach as high as $15,000 due to disease progression and increased levels of care.

It's imperative we implement the highest of training standards and requirements, especially for the vulnerable Marylanders in memory care units. I urge a favorable report on this legislation.

Lucia Paris
4215 Rolling Knolls Court
Mount Airy, MD 21771

SB0204 Memory Care and Alzheimers Disease Unit Reg

Uploaded by: Quinlan, Margo

Position: FAV

mhamd
MENTAL HEALTH ASSOCIATION OF MARYLAND

Heaver Plaza
1301 York Road, #505
Lutherville, MD 21093
phone 443.901.1550
fax 443.901.0038
www.mhamd.org

Senate Bill 204 Health Care Facilities - Assisted Living Programs - Memory Care and Alzheimer's Disease Unit Regulations
Senate Finance Committee
February 11, 2021
Position: Support

The Mental Health Association of Maryland is the state's only volunteer, nonprofit citizen's organization that brings together consumers, families, professionals, advocates and concerned citizens for unified action in all aspects of mental health and mental illness. We appreciate this opportunity to submit testimony in support of Senate Bill 204.

SB 204 seeks to require the Maryland Department of Health to adopt regulations establishing standards governing memory care and Alzheimer's disease units in assisted living programs. This would include requirements regarding training, staffing, admissions and discharge, and other procedures to reduce social isolation among residents. These regulations would support staff working directly with older adults who are facing increasing incidences of Alzheimer's disease and related dementia.

Alzheimer's disease and related dementia is currently afflicting 110,000 Marylanders, and impacts Black and Latinx communities at twice the rate of white communities.[1] This is not a genetic difference but rather one of structural racism – studies show that when adjusting for health and socioeconomic factors, the racial differences in Alzheimer's prevalence is significantly reduced.[2] Additionally, Black and Latinx older adults are often diagnosed in the later stages of the disease, requiring more intensive and costly levels of care.[3] Updating assisted living facility regulations would be an important step in the work of addressing this undue racial disparity.

SB 204 also seeks to establish standards for "adjusting activities to reduce social isolation of residents during a disease outbreak investigation." Social isolation has been demonstrated to negatively impact people's mental health, including increasing rates of anxiety and depression, and is a known symptom as well of pre-existing mental health conditions.[4] Long term social isolation can contribute to depression, poor sleep quality, impaired executive function, accelerated cognitive decline, poor cardiovascular function and impaired immunity at every stage

[1] Alzheimer's Association. *Race, Ethnicity, and Alzheimer's.* March, 2020. https://www.alz.org/aaic/downloads2020/2020_Race_and_Ethnicity_Fact_Sheet.pdf
[2] Chen, C., & Zissimopoulos, J. M. (2018). Racial and ethnic differences in trends in dementia prevalence and risk factors in the United States. *Alzheimer's & Dementia*, *4*, 510–520. https://doi.org/10.1016/j.trci.2018.08.009
[3] Alzheimer's Association. *Race, Ethnicity, and Alzheimer's.* March, 2020.
[4] Tulane University School of Public Health and Tropical Medicine, 2020. *Understanding the Effects of Social Isolation on Mental Health.* https://publichealth.tulane.edu/blog/effects-of-social-isolation-on-mental-health/

For more information contact:
Margo Quinlan, Director of Youth & Older Adult Policy: 410-236-5488 / mquinlan@mhamd.org

of life,[5] and may be coupled with post-traumatic stress disorder when connected with traumatic events such as death, illness, or social disasters like the COVID-19 pandemic.[6] Social isolation can also increase substance misuse and abuse, and social wellness has been identified as one of the eight dimensions of wellness under the Substance Abuse and Mental Health Services Administration.[7] COVID-19 has greatly exacerbated social isolation for many residents in congregate care facilities, as they are unable to safely visit with family during the pandemic who might otherwise provide support around meals, medications, and critical social interactions.

The Mental Health Association of Maryland supports the goals and intents of this bill and urges a favorable report on Senate Bill 204.

[5] Novotney, A., 2020. *The risks of social isolation.* American Psychological Association.
[6] Triangle Spring, 2020. *Effects of Social Isolation on Mental Health: What to Expect After Quarantine.* https://trianglesprings.com/blog/social-isolation/
[7] Kobrin, M. *Promoting Wellness for Better Behavioral and Physical Health*. SAMHSA. https://mfpcc.samhsa.gov/ENewsArticles/Article12b_2017.aspx

PJC testimony - SB 204.pdf
Uploaded by: Rodwin, David
Position: FAV

David Rodwin, Attorney
Public Justice Center
201 North Charles Street, Suite 1200
Baltimore, Maryland 21201
410-5815-9409, ext. 249
rodwind@publicjustice.org

SB 204 - Health Care Facilities – Assisted Living Programs – Memory Care and Alzheimer's Disease Unit Regulations

Hearing before the Senate Finance Committee, February 11, 2021

Position: SUPPORT

The Public Justice Center (PJC) is a not-for-profit civil rights and anti-poverty legal services organization that seeks to advance social justice, economic and racial equity, and fundamental human rights in Maryland. Our Workplace Justice Project aims to ensure that our state's low-wage workers receive fair and full payment for their labor, as well as other basic protections on the job. The PJC **supports SB 204** and urges a **favorable** report.

We must treat direct care workers as the professionals they are by investing in this critically important workforce.

- Direct care workers, including those who work at assisted living facilities, perform extraordinarily difficult work that allows older adults and people with disabilities to live outside of nursing facilities and in their communities.
- Unfortunately, despite the importance of these workers, we do not adequately invest in them – either by paying them fairly or by training them appropriately. Caring for individuals with dementia involves particular skills. Training on those skills is absolutely necessary.
- SB 204 would take a big step towards treating these workers as the professionals they are by investing in their training. Investments in the direct care workforce help professionalize that workforce, and are a recognition that care work is not "low-skill" work as it is sometimes assumed to be.

For the reasons indicated above, the Public Justice Center **SUPPORTS SB 204** and requests a **FAVORABLE** report.

The Public Justice Center is a 501(c)(3) charitable organization and as such does not endorse or oppose any political party or candidate for elected office.

Testimony-SB204-Memory Care and Alzheimer’s Diseas
Uploaded by: Stevenson, Christopher
Position: FAV

Testimony on SB204
Health Care Facilities – Assisted Living Programs – Memory Care and Alzheimer's Disease Unit Regulations
Position: FAVORABLE

Dear Madam Chair and Members of the Finance Committee:

My name is Ricarra Jones, and I am the Political Director with 1199SEIU- the largest healthcare union in the nation, where we represent over 10,000 healthcare workers in Maryland. Given the need to provide quality healthcare for patients who suffer from Alzheimer's disease, as well as the need to provide effective staff procedures to Alzheimer's patients, we support HB204- Health Care Facilities – Assisted Living Programs – Memory Care and Alzheimer's Disease Unit Regulations.

In the state of Maryland, Alzheimer's is a reality that plagues the lives of many senior citizens. As reported by the Alzheimer's Association, in 2020 an estimated 110,000 senior citizens were found to have been diagnosed with Alzheimer's in Maryland, and by 2025, an estimate of 130,00 seniors will be plagued by this disease. While the search for the cure for Alzheimer's disease continues, this bill mandates administrators and direct care staff to be properly trained annually on dementia-care matters. In doing so, this mandate would allow staff in various direct care institutions to provide modern care and techniques to assist Alzheimer's patients with their disease. Equally as important, this bill allows for ratio patterns to exist in order to properly staff each patient that deals with Alzheimer's disease.

For 1199SEIU members who are our healthcare workers that tend to patients with Alzheimer's and dementia-related diseases every day, this legislation is unequivocally necessary. Throughout this pandemic and before, our members continue to deal with a lack of training on how to properly care for Alzheimer's patients. To make matters worse, many of our members must go outside of their normal work hours and responsibilities to attend to Alzheimer's patients, in which they improperly mitigate mental health-related incidents. This not only throws the time schedule that our workers must keep assisting other patients, but it also puts both patient and staff at-risk for injury due to lack of training.

For this reason, we believe that this Act will create the necessary structure in place to improve overall training for staff and better healthcare quality for patients with Alzheimer's disease. We ask this Committee to please support SB204.

Respectfully,

Ricarra Jones
Maryland/DC Political Director
1199SEIU United Healthcare Workers- East
Cell: 443-844-6513

LeadingAge Maryland - 2021 - SB204 - AL memory car
Uploaded by: Greenfield, Aaron
Position: UNF

6811 Campfield Road
Baltimore, MD 21207

TO: The Honorable Delores Kelley
Chairwoman, Finance Committee

FROM: LeadingAge Maryland

SUBJECT: Senate Bill 204, Health Care Facilities – Assisted Living Programs – Memory Care and Alzheimer's Disease Unit Regulations

DATE: February 11, 2021

POSITION: Unfavorable

LeadingAge Maryland writes to request an unfavorable report on Senate Bill 204, Health Care Facilities – Assisted Living Programs – Memory Care and Alzheimer's Disease Unit Regulations.

LeadingAge Maryland is a community of not-for-profit aging services organizations serving residents and clients through continuing care retirement communities, affordable senior housing, assisted living, nursing homes and home and community-based services. We represent more than 120 not-for-profit organizations, including the vast majority of CCRCs in Maryland. Our mission is to expand the world of possibilities for aging in Maryland. We partner with consumers, caregivers, researchers, faith communities and others who care about aging in Maryland.

Under Senate Bill 204, the Maryland Department of Health (MDH) must adopt regulations that establish specific standards governing memory care and Alzheimer's disease units in assisted living program. Those standards include staff training requirements, a number of hours and topic content of dementia–specific training that is required to be completed annually, staffing pattern requirements which requires a direct care staff and nursing staff ratio, appropriate frequency and type of activities for residents, procedures that are beyond those procedures historically provided for in an assisted living program, including frequency of

nighttime bed checks to prevent dangerous events among residents and admissions and discharge criteria and procedures.

LeadingAge Maryland supports quality care and appreciates the Sponsor's intent. However, as we are still immersed in a global pandemic, now is just not the time for additional requirements. Providers are facing incredible burden in continuing to operate during this pandemic. Placing more regulatory burden will further challenge operations. Assisted livings are already required to provide training to all staff on Alzheimer's disease and related dementias.

We would like to see the draft Assisted Living regulations finalized by the Office of Health Care Quality. These regulations should appropriately include updated training requirements. Given the current State of Emergency, now is not the time for such changes.

Additionally, the industry continues to wrestle with workforce challenges. We need every worker we can find. We are seeing workforce challenges across the State and country, and there should be no requirements enacted that would preclude otherwise eligible and qualified individuals from working in our field. Senate Bill 204 will alter direct care and nursing staff ratios and add new certification requirements for activities/recreation personnel. There is simply no excess workforce to absorb such changes.

Over the last year, the industry has been tested. We have more to learn and we will apply these lessons to our practice. We would welcome continued discussions with the Sponsor but for these reasons, LeadingAge Maryland respectfully requests an unfavorable report for Senate Bill 204.

For additional information, please contact Aaron J. Greenfield, 410.446.1992

SB0204_UNF_LifeSpan - Memory Care and Alzheimer's
Uploaded by: Kauffman, Danna
Position: UNF

Keeping You Connected…Expanding Your Potential…
In Senior Care and Services

TO: The Honorable Delores Kelley, Chair
Members, Senate Finance Committee
The Honorable Pam Beidle

FROM: Danna L. Kauffman
Pamela Metz Kasemeyer
410-244-7000

DATE: February 11, 2021

RE: **OPPOSE** – *Senate Bill 204 – Health Care Facilities – Assisted Living Programs – Memory Care and Alzheimer's Disease Unit Regulations*

On behalf of the LifeSpan Network, the largest and most diverse senior care provider association in Maryland, we **respectfully oppose** Senate Bill 204. Senate Bill 204 requires the State to adopt regulations regarding Memory Care and Alzheimer's Disease Units. The bill specifies that the regulations must provide staff training requirements; staffing pattern requirements (including staff ratios); training and hours for individuals who oversee social activities; procedures that are beyond those procedures historically provided for in an assisted living program (including nighttime bed checks to prevent dangerous events among residents); and admission and discharge criteria.

The regulations governing assisted living programs underwent a major revision in March 2004 and December 2008. Each revision underwent a comprehensive review by the Office of Health Care Quality (OHCQ), which included gathering input from both provider and consumer organizations. During the December 2008 revision, COMAR 10.07.14.30 was adopted and governs Alzheimer's Special Care Unit (see attached). Many of the areas included in Senate Bill 204 are included in the current regulations. However, because Maryland has adopted a "one-size fits all regulatory structure" it was determined in the December 2008 revision to require assisted living programs to submit detailed information on the operations of the Alzheimer's Special Care Unit rather than require specific ratios, etc. This information is approved for operation by OHCQ and it can "restrict admission or close the operation of a special care unit if the Department determines that the facility has not demonstrated compliance with this regulation, or the health or safety of residents is at risk."

In 2013/2014, OHCQ began discussions on a third revision to the assisted living program regulations. As part of this process, OHCQ again began meetings with stakeholders and released several drafts for comment. However, in 2016/2017, OHCQ suspended the review to finalize the nursing home regulations, which were also undergoing a comprehensive review, with the understanding that the assisted living program revisions would be completed following

promulgation of the nursing home regulations. In June 2019, the nursing home regulations were finalized. LifeSpan is very supportive of completing the assisted living program revisions and strongly believes that the process typically adopted by OHCQ (garnering input by stakeholders and holding meetings) is the appropriate forum for these discussions rather than mandating certain requirements in statute. The assisted living program regulations are comprehensive and must be examined within the totality of the regulations rather than simply one aspect.

With regard to Senate Bill 204, LifeSpan is concerned regarding the vagueness of the language. It is unclear what is meant by "procedures that are beyond those procedures historically provided for in an assisted living program" and we are equally concerned that the requirement for hours and training for those that provide activities could be financially detrimental and affect those that are currently employed in this role. Again, we believe that these items are better suited for discussions during revision meetings. Lastly, it is important to point out that the definition of "limited nursing services" does not align with the Nurse Practice Act. The only health care practitioner who can perform assessments is specified on the Resident Assessment Tool, including a physician or registered nurse.

Again, Lifespan is very supportive of continuing discussions on the revisions to the assisted living program regulations, which includes a review of the current regulations governing Alzheimer's Special Care Units, with the goal of completing them in a reasonable manner. We would request an unfavorable vote on Senate Bill 204 to allow this process to continue. Thank you.

7090 Samuel Morse Drive, Suite 400, Columbia, MD 21046
410-381-1176 Fax 410-381-0240 www.LifeSpan-Network.org

10.07.14.30

.30 Alzheimer's Special Care Unit.

A. Written Description. At the time of initial licensure, an assisted living program with an Alzheimer's special care unit shall submit to the Department a written description of the special care unit using a disclosure form adopted by the Department. The description shall explain how:

(1) The form of care and treatment provided by the Alzheimer's unit is specifically designed for the specialized care of individuals diagnosed with Alzheimer's disease or a related dementia; and

(2) The care in the special care unit differs from the care and treatment provided in the nonspecial care unit.

B. At the time of license renewal, an assisted living program with an Alzheimer's special care unit shall submit to the Department a written description of any changes that have been made to the special care unit and how those changes differ from the description of the unit that is on file with the Department.

C. An assisted living program with an Alzheimer's special care unit shall disclose the written description of the special care unit to:

(1) Any person on request; and

(2) The family or resident's representative before admission of the resident to the Alzheimer's special care unit or program.

D. The description of the Alzheimer's special care unit shall include:

(1) A statement of philosophy or mission;

(2) How the services of the special care unit are different from services provided in the rest of the assisted living program;

(3) Staff training and staff job titles, including the number of hours of dementia-specific training provided annually for all staff by job classification and a summary of training content;

(4) Admission procedures, including screening criteria;

(5) Assessment and service planning protocol, including criteria to be used that would trigger a reassessment of the resident's status before the customary 6-month review;

(6) Staffing patterns, including the ratio of direct care staff to resident for a 24-hour cycle, and a description of how the staffing pattern differs from that of the rest of the program;

(7) A description of the physical environment and any unique design features appropriate to support the functioning of cognitively impaired individuals;

(8) A description of activities, including frequency and type, how the activities meet the needs of residents with dementia, and how the activities differ from activities for residents in other parts of the program;

(9) The program's fee or fee structure for services provided by the Alzheimer's special care unit or program as part of the disclosure form that is required in Regulation .10 of this chapter;

(10) Discharge criteria and procedures;

(11) Any services, training, or other procedures that are over and above those that are provided in the existing assisted living program; and

(12) Any other information that the Department may require.

E. The Department shall restrict admission or close the operation of a special care unit if the Department determines that the facility has not demonstrated compliance with this regulation or the health or safety of residents is at risk.

1a -FIN - SB 204 -MDH -LOI.pdf

Uploaded by: Office of Governmental Affairs, Maryland Department of Health

Position: INFO

Maryland
DEPARTMENT OF HEALTH
Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Dennis R. Schrader, Acting Secretary

February 10, 2021

The Honorable Delores G. Kelley, Chair
Senate Finance Committee
3 East
Miller Senate Office Building
Annapolis, MD 21401-1991

RE: Senate Bill 204 – Health Care Facilities – Assisted Living Programs – Memory Care and Alzheimer's Disease Unit Regulations – Letter of Information

Dear Chair Kelley and Committee members:

The Maryland Department of Health (MDH) respectfully submits this letter of information for Senate Bill 204 – Health Care Facilities – Assisted Living Programs – Memory Care and Alzheimer's Disease Unit Regulations. This bill would establish training, staffing ratio, and admission and discharge standards for Memory Care and Alzheimer's disease units within assisted living programs. SB 204 does not provide enough detail on the programmatic standards and regulations necessary to determine its fiscal impact; therefore, MDH utilized several assumptions.

MDH used FY2018 baseline costs of $22,880,586 total funds (TF) to determine the fiscal impact of increasing provider rates. An estimated approximate increase of $15.00 per diem would be necessary to account for new training, timely assessment requirements, and staffing ratio requirements. MDH also factors in a 4% annual provider rate increase as stipulated by HB166/SB280 and assumes an annual service utilization rate of 2% based on existing state budget projections.

MDH assumes there would be associated administrative costs to enforce the additional requirements necessary to be in compliance with standards outlined in this bill. MDH would require a minimum of two full-time staff. Additionally, MDH assumes an annual increase of $600,000 would be needed to fulfill work orders, change requests, and ongoing enhancements to their data retention and management system.

Assuming a 50% FMAP rate for all associated costs., the following represents assumed estimated costs:

- FY22: $4,626,130 TF ($2,313,065 FF, $2,313,065 GF)
- FY23: $6,255,556 TF ($3,127,778 FF, $3,127,778 GF)
- FY24: $6,589,578 TF ($3,294,789 FF, $3,294,789 GF)
- FY25: $6,944,415 TF ($3,472,207 FF, $3,472,207 GF)
- FY26: $6,972,135 TF ($3,486,067 FF, $3,486,067 GF)

If passed, SB 204 would require MDH to promulgate regulations around the areas outlined in the bill. Due to COVID-19, MDH unfortunately does not have the fiscal or personnel resources to implement this bill if it is passed. Many of MDH's current personnel have already increased their workload and absorbed additional tasks that are critical to the COVID-19 response.

I hope this information is useful. If you would like to discuss this further, please contact Assistant Secretary for Health Policy Webster Ye at (410) 260-3190 or webster.ye@maryland.gov.

Sincerely,

Webster Ye
Assistant Secretary

1c - FIN - SB 204 - MHCC - LOI.pdf
Uploaded by: Office of Governmental Affairs, Maryland Department of Health
Position: INFO

STATE OF MARYLAND

Andrew N. Pollak, M.D
CHAIR

Ben Steffen
EXECUTIVE DIRECTOR

MARYLAND HEALTH CARE COMMISSION
4160 PATTERSON AVENUE – BALTIMORE, MARYLAND 21215
TELEPHONE: 410-764-3460 FAX: 410-358-1236

February 11, 2021

The Honorable Delores G. Kelley
3 East
Miller Senate Office Building
Annapolis, Maryland 21401The Honorable

RE: SB 204 – Health Care Facilities – Assisted Living Programs – Memory Care and Alzheimer's Disease Unit Regulations – Letter of Information

Dear Chair Kelley:

The Maryland Health Care Commission (the "MHCC") is submitting this letter of information for HB 416 – Assisted Living Programs – Memory Care and Alzheimer's Disease Unit Regulations.

This bill requires the implementation of regulations for Memory Care and Alzheimer's Disease Units in assisted living facilities. The bill calls for the Maryland Department of Health to create specific standards that include requirements surrounding staff training, staffing patterns, frequency of nighttime bed checks, and clear admissions and discharge criteria and procedures. Furthermore, the bill calls for requirements for the frequency and type of activities available to residents, requirements for the training of staff in charge of activities, and requirements for adjusting activities to reduce social isolation during disease outbreaks.

Current regulations for assisted living facilities' Alzheimer's Special Care Units (COMAR 10.07.14.30) require units to be clear about staff training (including hours of dementia-specific training) and patterns, admissions and discharge procedures, and frequency and type of activities. The proposed bill requests that the regulations add specificity to already existing regulations. Additionally, the adopted regulations under COMAR 10.07.02.25 Comprehensive Care Facilities - Special Care Units – Dementia Care Unit are similar to the proposed bill. COMAR 10.07.02.25 states that Dementia Care Units must provide information about the placement, transfer, and discharge from the unit, staff training efforts and staffing patterns, and information on the frequency and types of resident activities. The proposed bill is requesting the implementation of similar requirements in assisted living facility Memory Care Units.

I hope this information is useful. If you would like to discuss this further, please contact Ben Steffen, Executive Director, Maryland Health Care Commission at ben.steffen@maryland.gov.

Sincerely,

Andrew Pollack, MD
Chair

Ben Steffen
Executive Director

cc: Senator Beidle