



Board of Examiners of Long Term Care Administrators

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2023 SESSION POSITION PAPER

BILL NO: SB 665
COMMITTEE: FINANCE
POSITION: SUPPORT

TITLE: Assisted Living Programs – Unlicensed Programs – Resident Abuse and Neglect

BILL ANALYSIS: This bill establishes the requirement for the Maryland Department of Health, or other designee of the Department, to conduct an investigative process to determine if residents who reside in an assisted living program have been subject to neglect and/or physical abuse if the assisted living program is unlicensed in Maryland. Furthermore, the bill also proposes subjecting certain unlicensed assisted living programs to immediate prosecution based upon a specific legal provision under certain circumstances, re-evaluates the various factors that the State government is required to consider when determining the amount of penalty for violation of a specific prohibition against operating an unlicensed assisted living program, and allows other entities and local health officers to petition for injunctive relief against the operation of an unlicensed assisted living program to ultimately protect the public, specifically assisted living residents.

POSITION AND RATIONALE: The State Board of Long-Term Care Administrators (the “Board”) supports SB 665. This bill exemplifies the strategies that the State of Maryland is attempting to proactively implement to ensure public protection, which also continues to be the mission-critical initiative of the Board, especially since there was legislation that was passed in 2022 that establishes licensure for Maryland assisted living managers (effective October 1, 2024). It is noteworthy to disclose that assisted living programs in the United States are not regulated by the federal government. Hence, there is no federal statutory oversight or federal regulatory entity that is in place to govern the licensure or disciplinary processes for assisted living programs collectively as a nation. In Maryland, there are only 1,723 assisted living programs that are licensed and fully regulated by the State government, meaning that those assisted living programs are held accountable by the State and meet the State’s standards to operate and provide quality healthcare services to residents who are in vulnerable conditions. Consequently, those Maryland assisted living programs that are not licensed to operate do not meet the State’s standards to ensure the well-being and protection of their residents. Rather, unlicensed assisted living programs are more probable to perpetuate serious issues such as neglect of health care needs, unsafe and unsanitary conditions, staffing deficits, abuse, and financial exploitation of their residents.

As a part of the Office of Health Care Quality assisted living facility surveys, Maryland assisted living programs are cited and issued State tags that group various types of observable deficient practices. According to the *Office of Health Care Quality Annual Report and Staffing Analysis for Fiscal Year 2021*, the top ten most frequently cited assisted living deficiencies in assisted living programs in fiscal year 2021 also included the following: “Tag 2600 - Other Staff Qualifications” as #1; “Tag 2550 - Other Staff Qualifications” as #2; “Tag 2780 - Delegating Nurse” as #3; and “Tag 2220 - Assisted Living Manager” as #10. In addition, 135 citations were issued for State tag 3680 “Medication Management and Administration” in assisted living programs, the eighth highest assisted living program deficiency in fiscal year 2021. The given information is truly concerning, especially since almost half of the residents in assisted living programs in Maryland are over the age of 85 with underlying health conditions that require higher medication needs and medical support. The data depicts a severe deficit in staffing qualifications in licensed assisted living programs, but unfortunately creates a gap of information that omits any deficient practice related to unlicensed assisted living programs.

In conclusion, implementing the statute provisions that are outlined in SB 665 would provide leverage for the State to hold unlicensed assisted living facilities and the long-term care industry accountable for their operation violations, set a statute and regulatory standard for prospective assisted living program operators, and most importantly fortify the protection of assisted living residents. For the above reasons, the Board strongly urges a favorable report for SB 665.

For more information, please contact Ms. Ciara J. Lee, Executive Director for the Maryland State Board of Long-Term Care Administrators, at 410-764-4749 or ciaraj.lee1@maryland.gov.

The opinion of the Board expressed in this document does not necessarily reflect that of the Department of Health or the Administration.