

Bill: HB 786 Electronic Health Networks and Electronic Medical Records - Nursing Homes - Release of Records

Committee: Health and Government Operations

Position: Support with amendments

March 7, 2023

The Maryland Long-Term Care Ombudsman program advocates for residents in nursing homes and assisted living facilities in Maryland. Ombudsmen work to resolve complaints that can have adverse effects on the quality of care, safety, health, and quality of life of the citizens that reside in these facilities. In Maryland, ombudsmen provide these services to the over 50,000 citizens that live and receive services in nursing homes and assisted living facilities.

Nursing home residents are entitled to be informed of their rights upon admission and throughout their stay in the nursing home. The facility has the responsibility to ensure the right to privacy of all medical records. This right should be explained upon admission and when possible, prior to admission. Additionally, this right should be provided in writing and verbally. This includes the disclosure of when medical records are disclosed to other parties. The resident or resident representative should provide consent for the release of all resident records.

The federal regulations state the following: §483.10(h) Privacy and Confidentiality. The resident has a right to personal privacy and confidentiality of his or her personal and medical records. §483.10(h)(1) Personal privacy includes accommodations, medical treatment, written and telephone communications, personal care, visits, and meetings of family and resident groups, but this does not require the facility to provide a private room for each resident. §483.10(h)(2) The facility must respect the residents right to personal privacy, including the right to privacy in his or her oral (that is, spoken), written, and electronic communications, including the right to send and promptly receive unopened mail and other letters, packages and other materials delivered to the facility for the resident, including those delivered through a means other than a postal service. §483.10(h)(3) The resident has a right to secure and confidential personal and medical records. (i) The resident has the right to refuse the release of personal and medical records except as provided at §483.70(i)(2) or other applicable federal or state laws. (ii) The facility must allow representatives of the Office of the State Long-Term Care Ombudsman to examine a resident's medical, social, and administrative records in accordance with State law.

Proposed Amendments:

The citation number appears to be incorrect. Instead of 45 CFR 106.103 it should be 160.103.

Additionally, when the facility has business associates as defined by the federal regulations, this information should be included in the admissions' paperwork and in other documents so that the resident or resident representative can consent to the release of their medical records.

I ask the Committee to consider my comments and amendments suggested for this bill.

Sincerely,

Stevanne Ellis

Maryland State Long-Term Care Ombudsman