

Bill: SB 863 Office of the Attorney General – Rights of Residents of Health Care Facilities – Injunctive Relief and Penalties

Position: Support with Amendments

February 29, 2024

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.

The ombudsman program has found that many assisted living residents in Maryland are unaware of their rights. This bill addresses this issue since it includes minimum requirements for a resident bill of rights for assisted living residents. This is incredibly important because unlike nursing homes that have both federal and state law and regulations, assisted living facilities only have state law and protections. This addition to the law will provide an assurance that these rights must be upheld and protected.

The Long-Term Care Ombudsman Program has seen too many cases where residents were not treated with dignity, suffered abuse and exploitation, were trafficked for benefits, were not involved in decision making related to their care or finances, and were discharged inappropriately. When these rights are violated, it can often lead to very serious, devastating, and at times life threatening or deadly situations. There are providers that take away basic resident rights and create their own “house rules.” We see providers restricting visitors, outings, meals, and having inappropriate access to the resident’s money. We have seen vulnerable adults left alone with no choice, no voice, no staff, and no safety. This bill will allow the Attorney General’s Office to seek injunctive relief which will hold providers accountable when residents’ rights are violated and act as a deterrent for those that provide negligent care to individuals in assisted living facilities.

I am asking for amendments to this bill. The threat of abandonment and poor discharge planning causes emotional and physical distress in residents. When abandonment and poor discharge planning happen, it causes harm. Consequently, I am requesting that the terms “abandonment” and “resident dumping” be added to the Bill of Rights.

According to the current state regulations, a facility is required to give notice when closing or when changing owners. However, many assisted living providers violate that regulation by closing without the owner/manager giving proper notice to OHCQ, the residents, or families. This is a growing concern and issue that appears to be on the rise. We see owners that change hands without going through the proper procedures, and then the facility is left in limbo as an unlicensed assisted living facility. In these situations, when care is provided, it is often substandard or poor care. When assisted living facility providers ignore resident rights, it not only devalues the resident and puts their lives at risk, but it creates a ripple effect across agencies such as Adult Protective Services, Office of Health Care Quality, Emergency Medical Services, hospitals, police, and the Long-Term Care Ombudsman Program. The resident is then left in an unlicensed facility sometimes without supervision and assistance or is forced to leave without having the time and assistance for an appropriate discharge plan. No facility should relinquish the responsibility of caring for a resident.

When a resident is “abandoned”, a resident is left alone for hours at a time when supervision and assistance is needed. An assisted living facility is required to provide 24-hour supervision and assistance. This means the resident should not be alone at a facility and should receive the individualized care that is needed.

When a resident is discharged, a resident should have an appropriate discharge plan and be involved in the planning of the discharge. When a resident is “dumped,” they are sent to an inappropriate place such as a homeless shelter, hospital, hotel, to the street, an unlicensed assisted living facility, or with someone that has not been trained to provide care and or who cannot meet the person’s needs. This is unacceptable.

I want to emphasize that there are currently very few protections in the state regulations and law for both issues – abandonment and poor discharge planning.

This bill is incredibly important because it will strengthen the current assisted living law. The law exists to protect the residents and to ensure the quality of care and quality of life of residents. Residents deserve to have a life free of all types of abuse, neglect, and exploitation.

I respectfully ask the Committee to consider my comments and offer a favorable report for this bill with the amendments I proposed.

Sincerely,

Stevanne Ellis

Maryland State Long-Term Care Ombudsman

It is critical that individuals in health care settings understand their rights and have the needed protections to ensure their rights.