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TO: Finance Committee
FROM: LeadingAge Maryland
SUBJECT: Senate Bill 863, Office of the Attorney General - Rights of Residents of Health Care Facilities - Injunctive Relief and Penalties
DATE: March 1, 2024
POSITION: Letter of Information

LeadingAge Maryland provides this letter of information on Senate Bill 863, Office of the Attorney General - Rights of Residents of Health Care Facilities - Injunctive Relief and Penalties.

LeadingAge Maryland is a community of more than 140 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. Members of LeadingAge Maryland provide health care, housing, and services to more than 20,000 older persons each year. Our mission is to be the trusted voice for aging in Maryland, and our vision is that Maryland is a state where older adults have access to the services they need, when they need them, in the place they call home.

Senate Bill 863 authorizes the Attorney General to seek injunctive relief on behalf of the State on the basis of an imminent or ongoing violation of the patients' bill of rights of residents of assisted living facilities. The Attorney General may request a court to impose a civil penalty not to exceed \$10,000 on an assisted living program for these violations.

LeadingAge Maryland supports the intent of this legislation. We want to ensure quality care and that older adults are free of abuse or neglect of any kind. However, this legislation raises practical and operational concerns for providers. LeadingAge Maryland would like clarification on the following:

- Existing Regulatory Environment: How will this new authority provided to the Attorney General intersect or coincide with the existing regulatory environment?
- Self Reporting: What happens when a provider self-reports and has taken all of the required steps to address an issue? Will the provider be penalized by the AG in these instances?
- Fines: Where will collected fines be allocated? Do these fines go to the resident? The Attorney General's office? For what purpose? LeadingAge Maryland suggests that the fines and penalties are restricted to payments that would be made to the resident, not to the Office of the Attorney General. The bill should also include a provision for payment by the Office of the Attorney General to the provider to cover legal fees/court costs if the case is found to be frivolous or a provider ultimately prevails.

LeadingAge Maryland is concerned with how this function by the Attorney General could create a lack of clarity around which state agency has jurisdiction over which issues.

LeadingAge Maryland seeks more clarity on these issues and for these reasons submits this letter of information on Senate Bill 863.

**For more information, please contact Aaron J. Greenfield, Greenfield Law, LLC,
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