



HB 828
Health and Government Operations – Health Care Facilities – Rights of Comprehensive and Extended
Care Facility Residents – Hospice Comfort Care
Hearing on February 20, 2025
Position: Unfavorable

Maryland Legal Aid submits its written and oral testimony opposing the changes proposed in HB 828. This testimony is offered at the request of the Maryland State Ombudsman, Karrie Craig.

Maryland Legal Aid (MLA) provides free legal services to the State’s low-income and vulnerable residents. Each year we assist hundreds of Maryland residents who find themselves in nursing facilities. We assist in involuntary discharge cases, and, sadly, in cases involving the abuse and neglect of nursing facility residents. We have seen patients in hospice care heavily medicated and left defenseless in public spaces shared by others. We have often witnessed the effect that medication can have on a patient’s psyche, leaving the patient non-communicative and unable to explain the legal difficulties he or she faces.

Presently, Md. Health Gen Code Ann. §19-343 (b) mirrors the Patient Bill of Rights as enacted in the Nursing Home Reform Act.¹ Section 19-343 (b)(vii) guarantees each nursing facility resident the right to be free from physical and chemical restraints, except for restraints that a physician authorizes for a clearly indicated medical need. HB 828 expands the use of restraints to include “sedatives, anti-anxiety medication, a bed rail or a Geri chair ordered or authorized by a prescriber, and used in compliance with the order, for a patient receiving hospice care.”

The law restricts the use of restraints for many obvious reasons. Improper use of physical restraints, like a Geri chair, might result in pressure sores and skin breakdown, which is serious and painful condition that can cause infection and death. Chemical restraints can result in confusion, and loss of personality and self.

Present law wisely only authorizes a physician to prescribe physical and chemical restraints for hospice care patients. The decision to use restraints involves complex ethical considerations, including patient autonomy and consent. Physicians have significant experience in navigating these ethical dilemmas, and balancing the medical need for restraint with the patient’s rights and wellbeing.

HB 828 would permit not only physicians, **but any prescribers**, to authorize restraints for hospice patients. Prescribers include nurse practitioners, nurse anesthetists, podiatrists, physician assistants if delegated by a physician, and even, dentists.² It would include any medical professional authorized to write a prescription. This expansion diminishes the protections guaranteed with physician-only authorization.

Hopefully, all hospice care prescribers deeply care for the patients. Nonetheless, they are frontline workers in a heart-wrenching, busy profession. The Bill would permit over-use of restraints for frontline workers own convenience. Certainly, front-line workers who are also prescribers may make recommendations, but those recommendations need physician review and authorization.

¹ 42 U.S. Code § 1395i-3; see also 42 CFR §483.10

² Md. Health Occupations Code Ann. §12-101.

Federal regulations governing hospice care requires that a physician re-evaluate restraint and seclusion orders at least every 24 hours.³ HB 828 contains no such protection, placing it odds with federal regulations, and eliminating important check on potential abuse for Marylanders at the end of life. Long-term systemic abuse is heightened as well as confusion by the providers regarding contradicting federal and state law.

The use of restraints of any sort and in any situation requires careful monitoring to prevent patient abuse, and to guarantee a dignified end to the hospice patient's life. The present change erodes the protections in the patient bill of rights and makes it more likely that staff convenience will predominate over patient dignity. Please do not enact HB 828.

If you have questions please contact Gloria Brown, Esq., Senior Staff Attorney, gvbrown@mdlab.org, or 410-951-7729.

³ 42 CFR §418.110 (n) (7)(“ After 24 hours, before writing a new order for the use of restraint or seclusion for the management of violent or self-destructive behavior, a physician authorized to order restraint or seclusion by hospice policy in accordance with State law must see and assess the patient.”)