



*Wes Moore, Governor · Aruna Miller, Lt. Governor · Laura Herrera Scott, M.D., M.P.H., Secretary*

February 20, 2025

The Honorable Joseline Peña-Melnyk  
Chair, Health and Government Operations Committee  
240 Taylor House Office Building  
Annapolis, MD 21401-1991

**RE: House Bill (HB) 828 - Health Care Facilities - Rights of Comprehensive and Extended Care Facility Residents - Hospice Comfort Care – Letter of Concern**

Dear Chair Peña-Melnyk and Committee Members:

The Maryland Department of Health (MDH) respectfully submits this letter of concern for House Bill (HB) 828 - Health Care Facilities - Rights of Comprehensive and Extended Care Facility Resident - Hospice Comfort Care.

The Office of Health Care Quality (OHCQ) is the designated State survey agency in Maryland and is authorized to conduct certification activities on behalf of the Centers for Medicare & Medicaid Services (CMS). Through State and federal authority, OHCQ conducts surveys to determine compliance with State licensure and/or federal certification regulations, which establish the minimum requirements to remain licensed and/or certified.

HB 828 provides an exception to the right of residents in comprehensive care facilities and extended care facilities to be free from physical and chemical restraints. The bill authorizes physicians and prescribers to use restraints or sedatives, anti-anxiety medication, bed rails, and geri chairs for patients receiving hospice care.

Federal and state regulations around the use of physical and chemical restraints are prescriptive for various provider types, including hospice care:

Conditions of Participation for Hospices, 42 CFR 418.110(n) states that: “ ... All patients have the right to be free from restraint or seclusion, of any form, imposed as a means of coercion, discipline, convenience, or retaliation by staff. Restraint or seclusion may only be imposed to ensure the immediate physical safety of the patient, a staff member, or others and must be discontinued at the earliest possible time.”

In its interpretive guidelines, CMS states that restraints should not be used as a routine part of a fall prevention program for hospice patients. These regulations are in place so that hospices only use restraints as a last resort to ensure immediate physical safety of patients, staff, or others and discontinue them at the earliest possible time.

Similarly, federal nursing home regulations at 42 CFR 483.10(e) state: “Respect and dignity. The resident has a right to be treated with respect and dignity, including (1) The right to be free from any physical or chemical restraints imposed for purposes of discipline or convenience, and not required to treat the resident's medical symptoms, consistent with [§ 483.12\(a\)\(2\)](#).”

HB 828 could conflict with these federal regulations. Although well intended, if passed, HB 828 would create confusion among providers in comprehensive care and extended care facilities, including assisted living facilities and nursing homes.

If you would like to discuss this further, please do not hesitate to contact Sarah Case-Herron, Director of Governmental Affairs, at [sarah.case-herron@maryland.gov](mailto:sarah.case-herron@maryland.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "Laura Herrera Scott".

Laura Herrera Scott, M.D., M.P.H.  
Secretary