

SENATE BILL 969

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CF HB 1063

By: **Senator Washington**

Introduced and read first time: February 3, 2020

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Health Care Facilities – Assisted Living Programs – Regulations, Staffing, and**
3 **Training**

4 FOR the purpose of requiring that certain regulations adopted by the Maryland
5 Department of Health relating to assisted living programs include requiring an
6 assisted living program to complete a certain assessment tool within a certain period
7 of time and requiring a certain program manager to invite certain individuals to
8 participate in a certain resident assessment; requiring that certain assisted living
9 programs have certain staff-to-resident ratios at certain assisted living program
10 facilities under certain circumstances; requiring certain direct care staff employed
11 by certain assisted living programs to complete a certain number of hours of training
12 approved by the Department under certain circumstances; requiring the Department
13 to provide a certain certificate to certain staff of an assisted living program under
14 certain circumstances; requiring the Department to ensure that certain training is
15 affordable and accessible; providing that certain training must be conducted by a
16 certain provider and may include certain training methods; defining certain terms;
17 and generally relating to the regulation of assisted living programs.

18 BY repealing and reenacting, with amendments,
19 Article – Health – General
20 Section 19–1805(b) and 19–1807
21 Annotated Code of Maryland
22 (2019 Replacement Volume)

23 BY adding to
24 Article – Health – General
25 Section 19–1805.1
26 Annotated Code of Maryland
27 (2019 Replacement Volume)

28 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 That the Laws of Maryland read as follows:

2 **Article – Health – General**

3 19–1805.

4 (b) (1) The Department, in consultation with representatives of the affected
5 industry and advocates for residents of the facilities and with the approval of the
6 Department of Aging and the Department of Human Services, shall adopt regulations to
7 implement this subtitle.

8 (2) The regulations adopted under paragraph (1) of this subsection shall:

9 (i) Provide for the licensing of assisted living programs;

10 (ii) Require the Department, during a survey or other inspection of
11 an assisted living program, to review the number of waivers granted to the program under
12 subsection (a)(3) of this section and determine whether a change in the program's licensure
13 status is warranted; [and]

14 (iii) Require an assisted living program facility to post in a
15 conspicuous place visible to actual and potential residents of the facility and other
16 interested parties:

17 1. A. Its statement of deficiencies for the most recent
18 survey;

19 B. Any subsequent complaint investigations conducted by
20 federal, State, or local surveyors; and

21 C. Any plans of correction in effect with respect to the survey
22 or complaint investigation; or

23 2. A notice of the location, within the facility, of the items
24 listed in item 1 of this item;

25 **(IV) REQUIRE AN ASSISTED LIVING PROGRAM TO COMPLETE**
26 **THE RESIDENT ASSESSMENT TOOL WITHIN:**

27 1. **7 DAYS AFTER PREADMISSION TO A FACILITY; OR**

28 2. **48 HOURS AFTER ADMISSION TO A FACILITY; AND**

29 **(V) REQUIRE AN ASSISTED LIVING PROGRAM MANAGER TO**
30 **INVITE:**

1 1. A PROSPECTIVE RESIDENT'S FAMILY MEMBER, AN
2 INDIVIDUAL WITH POWER OF ATTORNEY FOR THE RESIDENT, OR THE RESIDENT'S
3 PRIMARY CAREGIVER TO PARTICIPATE IN THE RESIDENT ASSESSMENT PROCESS
4 CONDUCTED BY THE ASSISTED LIVING PROGRAM; AND

5 2. A RESIDENT'S FAMILY MEMBER, AN INDIVIDUAL WITH
6 POWER OF ATTORNEY FOR THE RESIDENT, OR THE RESIDENT'S PRIMARY
7 CAREGIVER TO PARTICIPATE IN ANY ONGOING RESIDENT ASSESSMENTS
8 CONDUCTED BY THE ASSISTED LIVING PROGRAM.

9 19-1805.1.

10 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
11 INDICATED.

12 (2) "DAY SHIFT" MEANS THE TIME BETWEEN 7 A.M. AND 7 P.M.

13 (3) "NIGHT SHIFT" MEANS THE TIME BETWEEN 7 P.M. AND 7 A.M.

14 (B) IN AN ASSISTED LIVING PROGRAM FACILITY:

15 (1) THERE SHALL BE AT LEAST ONE DIRECT CARE STAFF MEMBER
16 FOR AT LEAST EVERY 12 RESIDENTS; AND

17 (2) WITH MULTIPLE FLOORS OR WINGS, DURING THE NIGHT SHIFT,
18 THERE SHALL BE AT LEAST ONE AWAKE DIRECT CARE STAFF MEMBER FOR EVERY
19 24 RESIDENTS ON EACH FLOOR OR WING.

20 (C) IN A LEVEL 2 ASSISTED LIVING PROGRAM FACILITY THAT PROVIDES A
21 MODERATE LEVEL OF CARE OR IN A LEVEL 3 ASSISTED LIVING PROGRAM FACILITY
22 THAT PROVIDES A HIGH LEVEL OF CARE:

23 (1) THERE SHALL BE AT LEAST ONE NURSE ON SITE DURING THE DAY
24 SHIFT; AND

25 (2) THERE SHALL BE AT LEAST ONE CERTIFIED MEDICAL ASSISTANT
26 ON SITE DURING THE NIGHT SHIFT.

27 (D) IN AN ASSISTED LIVING PROGRAM FACILITY THAT INCLUDES MEMORY
28 AND ALZHEIMER'S UNITS, THERE SHALL BE A 24-HOUR STAFF RATIO OF AT LEAST
29 ONE DIRECT CARE STAFF MEMBER FOR AT LEAST EVERY EIGHT RESIDENTS.

30 19-1807.

(a) (1) (I) Except as provided in [subsection (d) of this section] **PARAGRAPH (4) OF THIS SUBSECTION**, by January 1, 2006, an assisted living manager who is employed by an assisted living program that is licensed for 5 or more beds shall have completed a manager training course that is approved by the Department and includes an examination.

[(2)] (II) The manager training course shall:

[(i)] 1. Consist of at least 80 hours;

[(ii)] 2. Require attendance or participation at training programs that provide for direct interaction between faculty and participants; and

[(iii)] 3. Authorize a maximum of 25 hours of training through Internet courses, correspondence courses, tapes, or other training methods that do not require direct interaction between faculty and participants.

[(b)] (2) An assisted living manager employed in a program that is licensed for 5 or more beds shall be required to complete 20 hours of Department–approved continuing education every 2 years.

[(c)] (3) In addition to the sanctions specified in COMAR 10.07.14.48, an assisted living program that fails to employ an assisted living manager who meets the requirements of this section may be subject to a civil money penalty not to exceed \$10,000.

[(d) (1)] (4) (I) The requirements of [subsection (a) of this section] **PARAGRAPH (1) OF THIS SUBSECTION** do not apply to an individual who:

[(i)] 1. Is employed by an assisted living program and has enrolled in a Department–approved manager training course that the individual expects to complete within 6 months;

[(ii)] 2. Except as provided in [paragraph (3) of this subsection] **SUBPARAGRAPH (III) OF THIS PARAGRAPH**, is temporarily serving as an assisted living manager, for no longer than 45 days, due to an assisted living manager leaving employment and prior to the hiring of a permanent assisted living manager; or

[(iii)] 3. Subject to [paragraph (2) of this subsection] **SUBPARAGRAPH (II) OF THIS PARAGRAPH**:

[1.] A. Has been employed as an assisted living manager in the State for 1 year prior to January 1, 2006; or

[2.] B. Is licensed as a nursing home administrator in the State.

1 **[(2)] (II)** The Department may require an individual who is exempt under
2 **[paragraph (1)(iii) of this subsection] SUBPARAGRAPH (I)3 OF THIS PARAGRAPH** to
3 complete a manager training course and examination if the Department finds that the
4 assisted living manager repeatedly has violated State law or regulations on assisted living
5 and that those violations have caused actual physical or emotional harm to a resident.

6 **[(3)] (III)** An assisted living program may request an extension from the
7 Department to allow an individual to serve as an assisted living manager for longer than
8 45 days if the assisted living program has shown good cause for the extension.

9 **[(e)] (5)** The Department shall ensure that manager training courses approved
10 by the Department are affordable and accessible to assisted living programs and to
11 individuals seeking to enroll in the courses.

12 **(B) (1) DIRECT CARE STAFF MEMBERS WHO ARE EMPLOYED BY AN**
13 **ASSISTED LIVING PROGRAM THAT IS LICENSED FOR FIVE OR MORE BEDS SHALL:**

14 **(I) HAVE COMPLETED A MINIMUM OF 8 HOURS OF INITIAL**
15 **ON-SITE TRAINING APPROVED BY THE DEPARTMENT BEFORE BEGINNING**
16 **EMPLOYMENT WITH THE PROGRAM;**

17 **(II) WITHIN 60 DAYS AFTER EMPLOYMENT, COMPLETE 40**
18 **HOURS OF TRAINING THAT IS APPROVED BY THE DEPARTMENT AND INCLUDES AN**
19 **EXAMINATION; AND**

20 **(III) ANNUALLY COMPLETE 6 HOURS OF CONTINUING**
21 **EDUCATION TRAINING THAT IS APPROVED BY THE DEPARTMENT.**

22 **(2) THE DEPARTMENT SHALL PROVIDE A CERTIFICATE OF**
23 **COMPLETION TO A DIRECT CARE STAFF MEMBER ON COMPLETING THE TRAINING**
24 **AND PASSING THE EXAMINATION REQUIRED UNDER PARAGRAPH (1)(II) OF THIS**
25 **SUBSECTION.**

26 **(3) THE REQUIREMENTS OF PARAGRAPH (1)(I) AND (II) OF THIS**
27 **SUBSECTION DO NOT APPLY TO DIRECT CARE STAFF MEMBERS WHO HAVE BEEN**
28 **EMPLOYED BY THE ASSISTED LIVING PROGRAM FOR AT LEAST 1 YEAR BEFORE**
29 **OCTOBER 1, 2020.**

30 **(4) (I) THE DEPARTMENT SHALL ENSURE THAT TRAINING**
31 **COURSES APPROVED BY THE DEPARTMENT UNDER THIS SUBSECTION ARE**
32 **AFFORDABLE AND ACCESSIBLE TO ASSISTED LIVING PROGRAMS AND TO**
33 **INDIVIDUALS SEEKING TO ENROLL IN THE COURSES.**

34 **(II) THE TRAINING REQUIRED UNDER THIS SUBSECTION SHALL**

1 BE CONDUCTED BY A PROVIDER WHO IS APPROVED OR AUTHORIZED BY THE
2 DEPARTMENT AND MAY INCLUDE INTERNET COURSES, CORRESPONDENCE
3 COURSES, TAPES, OR OTHER TRAINING METHODS THAT DO NOT REQUIRE DIRECT
4 INTERACTION BETWEEN THE FACULTY AND PARTICIPANTS.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2020.