

HOUSE BILL 1299

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8lr1206

By: **Delegates Lam, Gutierrez, C. Howard, McComas, Turner, Valderrama,
K. Young, and P. Young**

Introduced and read first time: February 9, 2018

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Nursing Facilities – Discharge Plans – Review and Signature Requirement**

3 FOR the purpose of requiring that a certain social worker, nurse, nurse practitioner,
4 physician’s assistant, or physician review and sign a certain discharge plan for a
5 resident of a nursing facility before the nursing facility discharges the resident; and
6 generally relating to the reviewing and signing of discharge plans for residents of
7 skilled nursing facilities.

8 BY repealing and reenacting, with amendments,

9 Article – Health – General

10 Section 19–345.1

11 Annotated Code of Maryland

12 (2015 Replacement Volume and 2017 Supplement)

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

14 That the Laws of Maryland read as follows:

15 **Article – Health – General**

16 19–345.1.

17 (a) Except as provided in subsection [(e)](F) of this section, a facility shall provide
18 the resident with written notice of:

19 (1) Any proposed discharge or transfer; and

20 (2) The opportunity for a hearing in accordance with the provisions of this
21 section before the discharge or transfer.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) The Department shall prepare and provide each facility with a standardized
2 form that provides, in clear and simple language, at least the following information:

3 (1) Notice of the intended discharge or transfer of the resident;

4 (2) Each reason for the discharge or transfer;

5 (3) The right of the resident to request a hearing;

6 (4) The right of the resident to consult with any lawyer the resident
7 chooses;

8 (5) The availability of the services of the Legal Aid Bureau, the Older
9 American Act Senior Legal Assistance Programs, and other agencies that may provide
10 assistance to individuals who need legal counsel;

11 (6) The availability of the Department of Aging and local Office on Aging
12 Long-Term Care Ombudsman to assist the resident; and

13 (7) The provisions of this section.

14 **(C) A SOCIAL WORKER, NURSE, NURSE PRACTITIONER, PHYSICIAN'S**
15 **ASSISTANT, OR PHYSICIAN LICENSED OR CERTIFIED UNDER THE HEALTH**
16 **OCCUPATIONS ARTICLE SHALL REVIEW AND SIGN A DISCHARGE PLAN FOR A**
17 **RESIDENT BEFORE THE FACILITY DISCHARGES THE RESIDENT.**

18 **[(c)] (D)** Except as otherwise provided in this section, at least 30 days before the
19 facility involuntarily transfers or discharges a resident, the facility shall:

20 (1) Provide to the resident the written notice required under subsection (a)
21 of this section; and

22 (2) Provide the written notice required under subsection (a) of this section
23 to:

24 (i) The next of kin, guardian, or any other individual known to have
25 acted as the individual's representative, if any;

26 (ii) The Long-Term Care Ombudsman; and

27 (iii) The Department.

28 **[(d)] (E)** (1) (i) In accordance with regulations adopted by the Secretary,
29 the facility shall provide the resident with an opportunity for a hearing on the proposed
30 transfer or discharge.

1 (ii) The regulations adopted by the Secretary may provide for the
2 establishment of an escrow account when:

- 3 1. The basis for the discharge is nonpayment; and
- 4 2. The resident continues to reside in the facility while the
5 appeal is pending.

6 (2) Except as otherwise provided in this subsection, hearings on proposed
7 transfers or discharges shall be conducted in accordance with the provisions of Title 10,
8 Subtitle 2 of the State Government Article and the Medicaid Fair Hearing Procedures.

9 (3) Any hearing on a proposed discharge or transfer of a resident:

10 (i) Is not a contested case as defined in § 10–202 of the State
11 Government Article; and

12 (ii) May not include the Secretary as a party.

13 (4) A decision by an administrative law judge on a proposed discharge or
14 transfer of a resident:

15 (i) Is not a decision of the Secretary;

16 (ii) Unless appealed, is final and binding on the parties; and

17 (iii) May be appealed in accordance with § 10–222 of the State
18 Government Article as if it were a contested case but the appeal does not automatically
19 stay the decision of the administrative law judge.

20 **[(e)] (F)** (1) The provisions of this section requiring 30 days' notice and an
21 opportunity for a hearing before discharge or transfer of a resident do not apply if:

22 (i) An emergency exists and health or safety of the resident or other
23 residents would be placed in imminent and serious jeopardy if the resident were not
24 transferred or discharged from the facility as soon as possible; or

25 (ii) The resident has not resided in the facility for 30 days.

26 (2) If a facility discharges or transfers a resident under the provisions of
27 this subsection, the facility shall provide reasonable notice of the proposed discharge or
28 transfer.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 2018.