

# HOUSE BILL 723

J3, P1

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CF SB 863

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By: **The Speaker (By Request – Office of the Attorney General)**

Introduced and read first time: January 29, 2024

Assigned to: Health and Government Operations and Judiciary

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 7, 2024

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Office of the Attorney General – Rights of Residents of Health Care Facilities –**  
3 **Injunctive Relief ~~and Penalties~~**

4 FOR the purpose of authorizing the Attorney General to seek injunctive relief on behalf of  
5 the State on the basis of an imminent or ongoing violation of certain rights of  
6 residents of certain health care facilities; ~~authorizing the Attorney General to~~  
7 ~~request a court to impose a certain civil penalty on an assisted living program for~~  
8 ~~certain violations~~; requiring that the resident bill of rights for assisted living  
9 program residents include certain rights; prohibiting the Attorney General from  
10 duplicating certain corrective action by the Maryland Department of Health; and  
11 generally relating to the Attorney General and the rights of residents of health care  
12 facilities.

13 BY repealing and reenacting, without amendments,

14 Article – Health – General  
15 Section 19–343(b)  
16 Annotated Code of Maryland  
17 (2023 Replacement Volume)

18 BY repealing and reenacting, with amendments,

19 Article – Health – General  
20 Section 19–345.3 and 19–1805  
21 Annotated Code of Maryland  
22 (2023 Replacement Volume)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY adding to  
2 Article – Health – General  
3 Section 19–1805.1  
4 Annotated Code of Maryland  
5 (2023 Replacement Volume)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
7 That the Laws of Maryland read as follows:

8 **Article – Health – General**

9 19–343.

10 (b) (1) The General Assembly intends to promote the interests and well-being  
11 of each resident of a facility.

12 (2) It is the policy of this State that, in addition to any other rights, each  
13 resident of a facility has the following basic rights:

14 (i) The right to be treated with consideration, respect, and full  
15 recognition of human dignity and individuality;

16 (ii) The right to receive treatment, care, and services that are  
17 adequate, appropriate, and in compliance with relevant State and federal laws, rules, and  
18 regulations;

19 (iii) The right to privacy;

20 (iv) The right to be free from mental and physical abuse;

21 (v) The right to notice, procedural fairness, and humane treatment  
22 when being transferred or discharged from a facility;

23 (vi) The right to participate in decision making regarding transitions  
24 in care, including a transfer or discharge from a facility;

25 (vii) The right to expect and receive appropriate assessment,  
26 management, and treatment of pain as an integral component of the patient's care;

27 (viii) The right to be free from physical and chemical restraints, except  
28 for restraints that a physician authorizes for a clearly indicated medical need;

29 (ix) The right to receive respect and privacy in a medical care  
30 program; and

31 (x) The right to manage personal financial affairs.

1 19-345.3.

2 (a) The Secretary may impose a civil money penalty not to exceed \$10,000 for:

3 (1) Each violation by a facility of § 19-345, § 19-345.1, or § 19-345.2 of this  
4 subtitle; or

5 (2) Each willful or grossly negligent violation by a resident's agent or legal  
6 representative of § 19-345, § 19-345.1, or § 19-345.2 of this subtitle.

7 (b) If a civil money penalty is imposed under this section, the facility or agent or  
8 legal representative of the resident shall have the right to appeal from an order imposing  
9 the civil money penalty in accordance with Title 10, Subtitle 2 of the State Government  
10 Article.

11 (c) (1) A resident, resident's agent, or resident's attorney, or the Attorney  
12 General on behalf of the resident, who believes that an involuntary discharge or transfer  
13 that violates the requirements of § 19-345, § 19-345.1, or § 19-345.2 of this subtitle is  
14 imminent or has taken place may request injunctive relief from a circuit court.

15 (2) ~~THE~~ **TO PREVENT IRREPARABLE HARM TO RESIDENTS IN A**  
16 **FACILITY, THE ATTORNEY GENERAL MAY SEEK INJUNCTIVE RELIEF ON BEHALF OF**  
17 **THE STATE ON THE BASIS OF AN IMMINENT OR ONGOING VIOLATION OF A BASIC**  
18 **RIGHT OF RESIDENTS OF FACILITIES PROVIDED UNDER § 19-343(B)(2)(II), (IV), (V),**  
19 **(VIII), OR (X) OF THIS SUBTITLE.**

20 (3) In an action brought by the Attorney General under this subsection, the  
21 Attorney General may request that the court impose a civil penalty not to exceed \$100,000  
22 for each violation by a facility of § 19-345, § 19-345.1, or § 19-345.2 of this subtitle.

23 (4) **IN EXERCISING THE AUTHORITY GRANTED UNDER PARAGRAPHS**  
24 **(2) AND (3) OF THIS SUBSECTION, THE ATTORNEY GENERAL MAY NOT DUPLICATE**  
25 **ANY CORRECTIVE ACTION IMPOSED BY THE DEPARTMENT FOR THE SAME**  
26 **VIOLATION.**

27 19-1805.

28 (a) The Department shall:

29 (1) Define different levels of assisted living according to the level of care  
30 provided;

31 (2) Require all assisted living programs to be licensed to operate according  
32 to the level of the program;

1 (3) Develop a waiver process for authorizing an assisted living program to  
2 continue to care for an individual whose medical or functional condition has changed since  
3 admission to the program to an extent that the level of care required by the individual  
4 exceeds the level of care for which the program is licensed;

5 (4) Promote affordable and accessible assisted living programs throughout  
6 the State;

7 (5) Establish and enforce quality standards for assisted living programs;

8 (6) Require periodic inspections of assisted living program facilities,  
9 including at least an annual unannounced on-site inspection;

10 (7) Establish requirements for the qualifications or training or both of  
11 assisted living program employees;

12 (8) Establish a “resident bill of rights” for residents of assisted living  
13 program facilities **THAT INCLUDES, AT A MINIMUM:**

14 (I) **THE RIGHT TO BE TREATED WITH CONSIDERATION,**  
15 **RESPECT, AND FULL RECOGNITION OF HUMAN DIGNITY AND INDIVIDUALITY;**

16 (II) **THE RIGHT TO RECEIVE TREATMENT, CARE, AND SERVICES**  
17 **THAT ARE ADEQUATE, APPROPRIATE, AND IN COMPLIANCE WITH RELEVANT**  
18 **FEDERAL AND STATE LAWS, RULES, AND REGULATIONS;**

19 (III) **THE RIGHT TO BE FREE FROM MENTAL AND PHYSICAL**  
20 **ABUSE;**

21 (IV) **THE RIGHT TO BE FREE FROM MENTAL, VERBAL, SEXUAL,**  
22 **AND PHYSICAL ABUSE, NEGLECT, OR INVOLUNTARY SECLUSION OR EXPLOITATION;**

23 (V) **THE RIGHT TO NOTICE, PROCEDURAL FAIRNESS, AND**  
24 **HUMANE TREATMENT WHEN BEING TRANSFERRED OR DISCHARGED FROM A**  
25 **FACILITY;**

26 (VI) **THE RIGHT TO PARTICIPATE IN DECISION MAKING**  
27 **REGARDING TRANSITIONS IN CARE, INCLUDING A TRANSFER OR DISCHARGE FROM**  
28 **A FACILITY;**

29 (VII) **THE RIGHT TO BE FREE FROM PHYSICAL AND CHEMICAL**  
30 **RESTRAINTS, EXCEPT FOR RESTRAINTS THAT A PHYSICIAN AUTHORIZES FOR A**  
31 **CLEARLY INDICATED MEDICAL NEED; AND**

32 (VIII) **THE RIGHT TO MANAGE PERSONAL FINANCIAL AFFAIRS;**

1 (9) Define which, if any, assisted living programs may be exempt from the  
2 requirements of § 19–311 of this title; and

3 (10) For Alzheimer’s special care units:

4 (i) Establish the number of dementia–specific training hours to be  
5 completed for those staff working in Alzheimer’s special care units;

6 (ii) Determine the topic content for dementia–specific training  
7 required for those staff working in Alzheimer’s special care units; and

8 (iii) Require staff sufficient to meet the needs of residents in  
9 Alzheimer’s special care units.

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

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

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

16 (ii) Require the Department, during a survey or other inspection of  
17 an assisted living program, to review the number of waivers granted to the program under  
18 subsection (a)(3) of this section and determine whether a change in the program’s licensure  
19 status is warranted; and

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

23 1. A. Its statement of deficiencies for the most recent  
24 survey;

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

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

29 2. A notice of the location, within the facility, of the items  
30 listed in item 1 of this item.

31 **19–1805.1.**

1           (A) ~~THE~~ TO PREVENT IRREPARABLE HARM TO RESIDENTS IN A PROGRAM,  
 2 THE ATTORNEY GENERAL MAY SEEK INJUNCTIVE RELIEF ON BEHALF OF THE STATE  
 3 ON THE BASIS OF AN IMMINENT OR ONGOING VIOLATION OF A BASIC RIGHT OF  
 4 ASSISTED LIVING PROGRAM RESIDENTS PROVIDED UNDER § 19-1805(A)(8)(I)  
 5 THROUGH (VIII) OF THIS SUBTITLE.

6           (B) IN EXERCISING THE AUTHORITY GRANTED UNDER THIS SECTION, THE  
 7 ATTORNEY GENERAL MAY NOT DUPLICATE THE CORRECTIVE ACTION IMPOSED BY  
 8 THE DEPARTMENT FOR THE SAME VIOLATION.

9           ~~(B) IN AN ACTION BROUGHT BY THE ATTORNEY GENERAL UNDER THIS~~  
 10 ~~SECTION, THE ATTORNEY GENERAL MAY REQUEST THAT THE COURT IMPOSE A~~  
 11 ~~CIVIL PENALTY NOT TO EXCEED \$10,000 FOR EACH VIOLATION BY AN ASSISTED~~  
 12 ~~LIVING PROGRAM OF § 19-1805(A)(8)(I) THROUGH (VIII) OF THIS SUBTITLE.~~

13           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
 14 1, 2024.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.