

# SENATE BILL 825

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CF HB 1475

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By: **Senator Kramer**

Introduced and read first time: February 2, 2024

Assigned to: Finance

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 27, 2024

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

1 AN ACT concerning

2 **Health Facilities – Delegation of Inspection Authority – ~~Related Institutions and~~**  
3 **Nursing Homes**

4 FOR the purpose of requiring the Secretary of Health, on request of a ~~unit of local~~  
5 ~~government~~ county, to delegate to the ~~unit of local government~~ county the authority  
6 ~~to inspect and~~ to conduct site visits and full surveys of ~~related institutions and~~  
7 nursing homes; ~~requiring related institutions and nursing homes to report certain~~  
8 ~~information to a unit of local government if the Secretary has delegated inspection~~  
9 ~~authority~~ requiring that the Maryland Department of Health and certain counties  
10 equally share certain costs under certain circumstances; and generally relating to  
11 the inspection of ~~related institutions and~~ nursing homes and the delegation of  
12 authority.

13 BY repealing and reenacting, with amendments,

14 Article – Health – General

15 Section ~~19-304, 19-308, 19-1406, 19-1408, 19-1413.1, and 19-1414~~

16 Annotated Code of Maryland

17 (2023 Replacement Volume)

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

20 **Article – Health – General**

21 ~~19-304.~~

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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           ~~(a) A hospital or related institution shall:~~

2                   ~~(1) Report an unexpected occurrence related to an individual's medical~~  
 3 ~~treatment that results in death or serious disability that is not related to the natural course~~  
 4 ~~of the individual's illness or underlying disease condition; and~~

5                   ~~(2) Submit the report [to the Department] within 5 days of the hospital's~~  
 6 ~~or related institution's knowledge of the occurrence TO:~~

7                           ~~(I) THE DEPARTMENT; AND~~

8                           ~~(II) IF THE SECRETARY DELEGATED INSPECTION AUTHORITY~~  
 9 ~~UNDER § 19 308(C) OF THIS SUBTITLE OR § 19 1408(D) OF THIS TITLE, THE UNIT OF~~  
 10 ~~LOCAL GOVERNMENT.~~

11           ~~(b) A hospital or related institution may report [to the Department] an~~  
 12 ~~unexpected occurrence or other incident related to an individual's medical treatment that~~  
 13 ~~does not result in death or serious disability TO:~~

14                   ~~(1) THE DEPARTMENT; AND~~

15                   ~~(2) IF THE SECRETARY DELEGATED INSPECTION AUTHORITY IN~~  
 16 ~~ACCORDANCE WITH § 19 308(C) OF THIS SUBTITLE OR § 19 1408(D) OF THIS TITLE,~~  
 17 ~~THE UNIT OF LOCAL GOVERNMENT.~~

18           ~~(c) A hospital or related institution shall:~~

19                   ~~(1) Conduct a root cause analysis of an occurrence required to be reported~~  
 20 ~~under subsection (a) of this section; and~~

21                   ~~(2) Unless the Department approves a longer time period, submit the root~~  
 22 ~~cause analysis [to the Department] within 60 days of the hospital's or related institution's~~  
 23 ~~knowledge of the occurrence TO:~~

24                           ~~(I) THE DEPARTMENT; AND~~

25                           ~~(II) IF THE SECRETARY DELEGATED INSPECTION AUTHORITY~~  
 26 ~~UNDER § 19 308(C) OF THIS SUBTITLE OR § 19 1408(D) OF THIS TITLE, THE UNIT OF~~  
 27 ~~LOCAL GOVERNMENT.~~

28           ~~(d) If a hospital or related institution fails to comply with subsection (a) or (c) of~~  
 29 ~~this section, the Secretary may impose a fine of \$500 per day for each day the violation~~  
 30 ~~continues.~~

1       ~~(e) The Secretary shall adopt regulations to implement this section.~~  
2 ~~19-308.~~

3       ~~(a) The Secretary shall adopt reasonable rules and regulations that set standards~~  
4 ~~of services for related institutions, accredited hospitals, nonaccredited hospitals, accredited~~  
5 ~~residential treatment centers, and nonaccredited residential treatment centers in the~~  
6 ~~following areas:~~

7           ~~(1) The care of patients;~~

8           ~~(2) The medical supervision of patients;~~

9           ~~(3) The physical environment;~~

10          ~~(4) Disease control;~~

11          ~~(5) Sanitation;~~

12          ~~(6) Safety; and~~

13          ~~(7) Dietary matters.~~

14       ~~(b) (1) To assure compliance with the standards adopted under this subtitle,~~  
15 ~~the Secretary shall have an inspection made:~~

16           ~~(i) Of each related institution, each accredited hospital or~~  
17 ~~nonaccredited hospital, and each accredited residential treatment center or nonaccredited~~  
18 ~~residential treatment center for which a license is sought; and~~

19           ~~(ii) Periodically of each related institution, each accredited hospital~~  
20 ~~or nonaccredited hospital, and each accredited residential treatment center or~~  
21 ~~nonaccredited residential treatment center for which a license has been issued.~~

22           ~~(2) At least 2 inspections a year of each related institution shall be~~  
23 ~~unannounced.~~

24           ~~(3) The part of a building that contains part of a hospital, residential~~  
25 ~~treatment center, or related institution and any outbuilding are considered part of the~~  
26 ~~facility and are subject to inspection to determine occupancy status for licensing purposes.~~

27           ~~(4) Subject to § 2-1257 of the State Government Article, during each~~  
28 ~~regular session of the General Assembly, the Department shall submit to the General~~  
29 ~~Assembly a report on the inspections.~~

~~(5) (i) An employee of the Department may not inform a hospital, residential treatment center, or related institution of any proposed inspection activity, unless the chief of the employee's division directs the employee to do so.~~

~~(ii) An employee who violates any provision of this paragraph is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 1 year or both.~~

~~(c) ON REQUEST OF A UNIT OF LOCAL GOVERNMENT, THE SECRETARY SHALL DELEGATE TO THE UNIT OF LOCAL GOVERNMENT THE AUTHORITY TO INSPECT RELATED INSTITUTIONS UNDER THIS SECTION.~~

~~19-1406.~~

~~(a) Within 15 days of the request for an appeal by a nursing home, the nursing home shall deposit the amount of the civil money penalty in an interest bearing escrow account, the nursing home shall bear any cost associated with establishing the escrow account, and the account shall be titled in the name of the nursing home and the Maryland Department of Health as joint owners.~~

~~(b) When the Secretary issues the final decision of the Department:~~

~~(1) If the decision upholds the imposition of the full civil money penalty, the escrow funds will be released [to the Department] within 15 days from the date of the decision TO:~~

~~(i) THE DEPARTMENT; OR~~

~~(ii) IF THE SECRETARY DELEGATED INSPECTION AUTHORITY UNDER § 19-1408(D) OF THIS SUBTITLE, THE UNIT OF LOCAL GOVERNMENT;~~

~~(2) If the decision upholds the imposition of a civil penalty, but reduces the amount of the civil penalty, the amount due the Department OR A UNIT OF LOCAL GOVERNMENT will be released [to the Department] with accrued interest within 15 days of the date of the decision and the balance will be released to the nursing home within 15 days of the date of the decision TO:~~

~~(i) THE DEPARTMENT; OR~~

~~(ii) IF THE SECRETARY DELEGATED INSPECTION AUTHORITY TO A UNIT OF LOCAL GOVERNMENT UNDER § 19-1408(D) OF THIS SUBTITLE, THE UNIT OF LOCAL GOVERNMENT; or~~

~~(3) If the decision reverses the imposition of the civil penalty, the escrow funds will be released to the nursing home within 15 days of the decision.~~

1 ~~(e) (1) A hearing on the appeal shall be held in accordance with the~~  
2 ~~Administrative Procedure Act, under Title 10, Subtitle 2 of the State Government Article.~~

3 ~~(2) The Secretary shall have the burden of proof with respect to the~~  
4 ~~imposition of civil money penalties under § 19-1404 or § 19-1413.1 of this subtitle.~~

5 ~~(3) A decision shall be rendered by the Office of Administrative Hearings~~  
6 ~~within 10 working days of the hearing.~~

7 ~~(d) A nursing home is entitled to a 40% reduction in the amount of the civil money~~  
8 ~~penalty if it waives its right to a hearing within 30 days of the Department's order.~~

9 19-1408.

10 (a) (1) Subject to subsection (c) of this section, the Department shall make a  
11 site visit and conduct a full survey of each licensed nursing home at least once per calendar  
12 year.

13 (2) Unless otherwise required by federal law, all surveys shall be  
14 unannounced.

15 (b) (1) Subject to paragraph (2) of this subsection, the Department shall  
16 initiate an investigation of a nursing home complaint alleging actual harm within 10  
17 business days after receiving the complaint.

18 (2) If the Department receives a complaint against a nursing home alleging  
19 immediate jeopardy to a resident, the Department:

20 (i) Shall make every effort to investigate the complaint within 24  
21 hours after receiving the complaint; and

22 (ii) Shall investigate the complaint not later than 48 hours after  
23 receiving the complaint.

24 (c) If ownership of a licensed nursing home is transferred to a person that does  
25 not own or operate another nursing home in the State at the time of the transfer, the  
26 Department shall conduct:

27 (1) The first full survey of the licensed nursing home as required under  
28 subsection (a) of this section within 3 months after the date of transfer; and

29 (2) An unannounced, on-site follow-up survey of the licensed nursing  
30 home that covers any deficiencies noted in the full survey within 120 days after the full  
31 survey was completed.

32 **(D) (1) ON REQUEST OF A UNIT OF LOCAL GOVERNMENT COUNTY, THE**  
33 **SECRETARY SHALL DELEGATE TO THE UNIT OF LOCAL GOVERNMENT COUNTY THE**

1 AUTHORITY TO CONDUCT SITE VISITS AND FULL SURVEYS OF NURSING HOMES  
2 UNDER THIS SECTION.

3 (2) THE DEPARTMENT AND THE COUNTY SHALL EQUALLY SHARE THE  
4 COSTS OF CONDUCTING SITE VISITS AND FULL SURVEYS DELEGATED BY THE  
5 SECRETARY UNDER PARAGRAPH (1) OF THIS SUBSECTION.

6 ~~19-1413.1.~~

7 (a) ~~A nursing home that violates § 19-1413(2) of this subtitle is subject to a civil~~  
8 ~~money penalty not exceeding expenses incurred by the Office of Health Care Quality OR,~~  
9 ~~IF THE SECRETARY HAS DELEGATED THE AUTHORITY UNDER § 19-1408(D) OF THIS~~  
10 ~~SUBTITLE, A UNIT OF LOCAL GOVERNMENT in ensuring a smooth and orderly transition~~  
11 ~~of residents, including payroll expenses.~~

12 (b) ~~If a civil money penalty is imposed on a nursing home under subsection (a) of~~  
13 ~~this section, the nursing home is subject to § 19-1406 of this subtitle.~~

14 ~~19-1414.~~

15 ~~The Department OR, IF THE SECRETARY HAS DELEGATED THE AUTHORITY~~  
16 ~~UNDER § 19-1408(D) OF THIS SUBTITLE, A UNIT OF LOCAL GOVERNMENT may review~~  
17 ~~financial and performance records of an applicant for a license or management firm under~~  
18 ~~contract with an applicant for a license to determine ability of the applicant or management~~  
19 ~~firm to comply with appropriate laws and regulations.~~

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
21 October 1, 2024.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.