

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 493
Finance

(Senator Beidle)

Health

Nursing Facilities - Involuntary Discharge or Transfer

This bill specifies that a resident of a nursing facility may not be involuntarily transferred or discharged to a location other than the location identified in a specified notice, such as a hotel, shelter, or other temporary housing before the facility to which the resident is to be transferred has confirmed that the resident may be transferred to the facility and the facility is prepared to accept the resident. The bill also alters specified requirements for (1) the notice provided to a resident regarding any proposed discharge or transfer; (2) a new notice of any proposed discharge or transfer, including applicable timing requirements for discharge or transfer under a new notice; and (3) a post discharge plan of care.

Fiscal Summary

State Effect: The bill’s requirements can be handled with existing budgeted resources. Revenues are not affected.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary/Current Law: Generally, under current law, “facility” means a related institution that, under the rules and regulations of the Maryland Department of Health, is a comprehensive care facility or an extended care facility. Maryland regulations define “comprehensive care facility” as a nursing home that admits patients suffering from disease or disabilities or advanced age, requiring medical service and nursing service rendered by or under the supervision of a registered nurse. “Extended care facility” means a nursing

home that offers subacute care, providing treatment services for patients requiring inpatient care but who do not currently require continuous hospital services.

Under current law, it is the policy of the State that, in addition to any other rights, each resident of a facility has the following basic rights: (1) the right to notice, procedural fairness, and humane treatment when being transferred or discharged from a facility; and (2) the right to participate in decision making regarding transitions in care, including a transfer or discharge from a facility.

Involuntary Transfer or Discharge

Under current law, a facility must provide a resident with a written notice 30 days before any proposed discharge or transfer and provide the resident with the opportunity for a hearing before the discharge or transfer. A resident of a facility may not be transferred or discharged involuntarily except if: (1) the transfer or discharge is necessary for the resident's welfare and their needs cannot be met in the facility; (2) the transfer or discharge is appropriate because the resident's health has improved sufficiently so that the resident no longer needs the services provided by the facility; (3) the health or safety of an individual in a facility is endangered; (4) the resident has failed, after reasonable and appropriate notice, to pay for a stay at the facility; or (5) the facility ceases to operate.

Required Written Notice of Proposed Discharge or Transfer

Under current law, a facility must provide the resident with written notice of any proposed discharge or transfer, and the opportunity for a hearing before the discharge or transfer. The notice must include at least the following information:

- notice of the intended discharge or transfer of the resident;
- each reason for the discharge or transfer;
- the location to which the resident will be discharged or transferred, which may change as a result of an appeal or the discharge planning process;
- the name of the social worker or other professionally qualified staff, which may change during the discharge planning process, who is designated to provide social services and discharge planning services in connection with the discharge or transfer and will be responsible for the post discharge plan of care;
- a proposed date within 10 days after the date of the notice for a meeting between the resident, the resident's representative, and facility staff to develop the post discharge plan of care;
- the right of the resident to request a hearing;
- the right of the resident to consult with any lawyer the resident chooses;

- the availability of the services of the Legal Aid Bureau, the Older Americans Act Senior Legal Assistance Programs, and other agencies that may provide assistance to individuals who need legal counsel;
- the availability of the Long-Term Care Ombudsman Program; and
- specified provisions of current law related to notice of discharge or transfer.

The bill alters the name of the Legal Aid Bureau to be Maryland Legal Aid and requires the notice to also include:

- the name, mailing address, email address, and telephone number of the entity to which the resident must submit a request for a hearing, and instructions for obtaining, completing, and submitting a request for a hearing;
- the mailing address, email address, and telephone number of the Long-Term Care Ombudsman Program; and
- the mailing address, email address, and telephone number of Disability Rights Maryland.

Under current law, a facility must provide the required written notice as soon as practicable before discharge or transfer if (1) an emergency exists and the health or safety of the resident or other residents would be placed in imminent and serious jeopardy if the resident were not transferred or discharged as soon as possible or (2) the resident has not resided in the facility for 30 days.

The bill removes the requirement to provide the required written notice as soon as practicable before discharge or transfer if the resident has not resided in the facility for 30 days.

New Notice of Proposed Discharge or Transfer

Under current law, if the information in the notice changes before discharge or transfer, the facility must provide the changes to the recipients of the notice as soon as practicable after the new information becomes available.

The bill specifies that, if a new notice is provided, the resident may not be discharged or transferred for at least 30 days after the new notice has been provided to the resident, if the new notice is provided *before* (1) the expiration of the original required 30 days before the facility involuntarily transfers or discharges a resident or (2) the date of an order of discharge issued by an administrative law judge.

If the new notice is provided *after* the expiration of the original 30 days, the resident may be discharged or transferred as follows:

- **Change in Date of Discharge or Transfer Only:** If the original notice indicated a discharge location that was a licensed skilled nursing facility and the new notice changes the date of discharge or transfer only, the resident may be discharged on the earliest date that a bed is available at the facility;
- **Change to a Different Licensed Skilled Nursing Facility:** If the new notice changes the location of discharge or transfer to a different licensed skilled nursing facility, the resident may not be discharged or transferred for at least seven days after the new notice has been provided to the resident; and
- **Change to a New Facility That is Not a Licensed Skilled Nursing Facility:** If the new notice changes the location of discharge or transfer from a licensed skilled nursing facility to a location that is not a licensed skilled nursing facility but is otherwise determined to be a safe discharge location under an appropriate clinical evaluation in the post discharge plan of care, the resident may not be discharged or transferred for at least 30 days after the new notice has been provided to the resident.

The bill requires a new notice to indicate any differences between the prior notice and the new notice. A new notice must include a notice of the right to appeal the new notice for specified discharges or transfers. For a discharge or transfer that changes the date of discharge or transfer only or the location of discharge or transfer from one licensed skilled nursing facility to another licensed skilled nursing facility, a new notice is not required to include notice of the right to appeal the new notice.

Required Post Discharge Plan of Care

Under current law, before any discharge or transfer, a facility must develop a post discharge plan of care to assist the resident with adjusting to the resident's new living environment. That plan of care must also (1) address the resident's post discharge goals of care and treatment preferences and (2) identify each of the resident's reasonably anticipated medical and basic needs after discharge or transfer and establish a plan for meeting those needs.

The bill requires a post discharge plan to also (1) identify the address at which the resident will reside post discharge and (2) in accordance with regulations adopted by the Secretary of Health, provide a safe, secure, and sustainable environment for the resident.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 1002 (Delegate Lopez, *et al.*) - Health.

Information Source(s): Maryland Department of Aging; Maryland Department of Health; Department of Legislative Services

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