

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
2002 Legislative Session

Bill No. CB-20-2002

Chapter No. 24

Proposed and Presented by The Chairman (by request – County Executive)

Introduced by Council Members Scott and Wilson

Co-Sponsors _____

Date of Introduction April 30, 2002

BILL

1 AN ACT concerning

2 Congregate Living Facilities for the Elderly or Physically Handicapped

3 For the purpose of repealing certain provisions of the County Code that are obsolete.

4 BY repealing:

5 SUBTITLE 12. HEALTH.

6 Sections 12-168, 12-169, 12-170, 12-170.01,

7 12-171, 12-172, 12-173, 12-174, 12-175, and 12-176,

8 The Prince George's County Code

9 (1999 Edition, 2001 Supplement).

10 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,
11 Maryland, that Sections 12-168, 12-169, 12-170, 12-170.01, 12-171, 12-172, 12-173,
12 12-174, 12-175, and 12-176 of the Prince George's County Code be and the same are
13 hereby repealed:

14 **SUBTITLE 12. HEALTH.**

15 **DIVISION 7. [CONGREGATE LIVING FACILITIES FOR THE ELDERLY**
16 **OR PHYSICALLY HANDICAPPED.] RESERVED.**

17 **Sec. 12-168. [Definitions.] Reserved.**

18 [(a) As used in this Division:

19 (1) **Basement** shall mean the lowest level of a house with greater than 50%
20 of the wall area below grade.

21 (2) **Congregate Living Facility** shall mean a residential facility for four (4) to twenty
22 (20) elderly or physically handicapped residents within which is provided sheltered care services

1 which may include, but need not be limited to, living and sleeping facilities, meal preparation,
2 and, if necessary, tray service, laundry services, housekeeping, and personal observation and
3 direction in the activities of daily living, transportation for routine social and medical
4 appointments, and the availability of a responsible adult(s) for companionship or nonclinical
5 counseling. This term shall not be construed to include an "Adult Day Care Center," "Hospital,"
6 "Nursing or Care Home," "Family," or "Group Residential Facility," as defined elsewhere in this
7 Code.

8 (3) **Department** shall mean the Prince George's County Health Department.

9 (4) **Elderly resident** shall mean, for the purposes of this Division, an individual who
10 is sixty (60) years of age or older and requires sheltered care.

11 (5) **Facility** shall mean a licensed facility for congregate living.

12 (6) **Health Officer** shall mean the Prince George's County Health Officer or his/her
13 designee.

14 (7) **Licensee** shall mean the person operating a congregate living facility, as
15 designated on the license issued by the Health Department, and which, as used in this Division,
16 shall include the designated representative, manager, or qualified staff acting on behalf of the
17 licensed operator.

18 (8) **Person** shall mean municipality, county, individual(s), partnership, corporation,
19 association, institution, the State, or a cooperative enterprise.

20 (9) **Physically Handicapped Resident** shall mean, for the purposes of this Division,
21 an individual with a permanent, nonacute physical impairment which requires sheltered care.

22 (10) **Regulations** shall mean the requirements for operating and maintaining a
23 congregate living facility, approved by the Board of Health, which include, but shall not be
24 limited to, physical facilities, water supply, waste disposal, laundry, food service,
25 accommodations and furnishings, screening, and personal hygiene.

26 (11) **Resident** shall mean anyone elderly or physically handicapped residing in a
27 congregate living facility and receiving sheltered care. A resident may or may not be related by
28 blood, marriage, or adoption to the licensed operator.

29 (12) **Sheltered care** shall mean the provision of certain services which may include,
30 but need not be limited to, living and sleeping facilities, meal preparation, and, if necessary, tray
31 service, laundry services, housekeeping, and, if necessary, personal observation and direction in

1 the activities of daily living. Sheltered care may also include general non-clinical counseling and
2 transportation for appointments.]

3 **Sec. 12-169. [License requirements, penalties for operating without a license.] Reserved.**

4 [(a) It shall be unlawful for any person to establish, maintain, or operate a congregate living
5 facility within the County without first obtaining a license from the Health Officer to do so, and
6 then only in accordance with the terms of such license. The Health Officer shall have the power
7 in specific cases to waive any license requirement, in harmony with the general purpose and
8 intent of this Division, if he finds that compliance is not practicable or desirable, or would
9 constitute an unreasonable hardship based on a comprehensive individual assessment of the
10 elderly or disabled. A waiver may be revoked at any time:

11 (1) If a facility violates any conditions of the waiver; or

12 (2) Upon transfer or lease of facility ownership; or

13 (3) If it shall appear to the Health Officer that an unreasonable risk to the continued
14 health or safety of the patients exists.

15 (b) Separate licenses shall be required for congregate living facilities maintained on
16 separate properties. Only one (1) facility may be operated on a single property. Licenses shall
17 not be transferable.

18 (c) Licenses issued by the County Health Officer shall not satisfy license requirements,
19 certifications, or other provisions of the State regarding other facilities. Facilities having a dual
20 function, such as care of the sick as provided by the Code of Maryland Regulations or this Code,
21 in addition to a congregate living facility, shall be licensed individually for the additional health
22 care services beyond those provided herein.

23 (d) The license shall be conspicuously posted within the facility indicating the maximum
24 number of residents permitted. Residents who are related by blood, marriage, or adoption to the
25 licensed operator or residing at said facility shall be included within the maximum permitted
26 number of residents. A facility at no time shall exceed the maximum number of residents
27 permitted by the license.

28 (e) Any person maintaining or operating a congregate living facility without a license
29 issued pursuant to this Division shall be deemed guilty of a misdemeanor, and upon conviction,
30 shall be punished by a fine not exceeding One Thousand Dollars (\$1,000) or by imprisonment in
31 the County jail or other place of legal incarceration for not more than six (6) months or both.

1 Each day the facility operates without a license after notification by the Department shall
2 constitute a separate offense.

3 (f) Congregate living facilities licensed under this Division shall not use the following
4 terms within their titles: hospital, sanatorium, nursing, domiciliary, convalescent, or rest.]

5 **Sec. 12-170. [License application, expiration, prohibition of transfers.] Reserved.**

6 [(a) The applicant for a congregate living facility license is the licensee. Responsibility for
7 conformance with the requirements of this Division and regulations rests upon the licensee.

8 (b) An applicant desiring to open a congregate living facility, or to continue the operation
9 of an existing facility, shall file an application with the Prince George's County Health
10 Department on a form provided by the Department.

11 (c) Applications on behalf of a corporation, association, or a governmental unit or agency
12 shall be made by two (2) of its officers and the names of their board members shall be submitted.
13 Unless the addresses of the officers are located in the State of Maryland, the name and address of
14 the Resident Agent in Maryland shall also be submitted.

15 (d) Each application to operate a congregate living facility shall be accompanied by a fee
16 of One Hundred Dollars (\$100.00). All licenses issued shall expire one (1) year from the date of
17 issuance unless revoked. Fees shall not be refunded. A duplicate license will be issued, on
18 request, at a charge of Fifteen Dollars (\$15.00).

19 (e) Applications shall include identification of the zoning of the facility, and Special
20 Exception number and date of approval if the facility has more than eight (8) residents, which
21 shall be verified by the Health Department.

22 (f) Application for renewal of the license shall be made each year at least sixty (60) days
23 before the expiration of the issued license, submitted on forms provided by the Department, and
24 accompanied by a One Hundred Dollar (\$100.00) license renewal fee. A duplicate license will
25 be issued, on request, at a charge of Fifteen Dollars (\$15.00).

26 (g) A license shall be valid for operating a congregate living facility only by the person for
27 whom said license was issued and may not be the subject of sale, assignment, or other transfer,
28 voluntary or involuntary. A license may not be valid for any other premise than that for which
29 the license was originally issued.

30 (h) When the property licensed for a congregate living facility is sold, leased, or
31 discontinued, or the operation is moved to a new location, or when the license is revoked or its

1 renewal denied, the current license immediately becomes void and shall be returned to the
2 Department. Any new owner or lessee shall apply for a new license in order to continue a
3 congregate living facility on said property. The new licensee shall be required to conform to all
4 regulations applicable at the time the license is issued.]

5 **Sec. 12-170.01. [Approval of Plans.] Reserved.**

6 [No person shall construct or substantially alter any congregate living facility until plans
7 and specifications have been submitted to and approved by the Prince George's County Health
8 Department. At the time of submitting plans to the Health Department for new or remodeled
9 congregate living facilities, a fee of Two Hundred Dollars (\$200.00) for new facilities or a fee of
10 One Hundred Fifty Dollars (\$150.00) for remodeled facilities shall be paid. A fee of Twenty-
11 five Dollars (\$25.00) shall be paid for each resubmittal of plans after the first resubmittal. An
12 additional fee of Twenty-five Dollars (\$25.00) shall be paid for each reinspection after the first
13 reinspection required prior to approval to operate. A fee of Twenty-five Dollars (\$25.00) shall
14 be paid for prospective inspections, consultations, and equipment evaluations.]

15 **Sec. 12-171. [License revocation, appeals, penalties.] Reserved.**

16 (a) The Department shall inform the applicant in writing of the reasons for refusal to grant
17 a license and shall provide a copy of said notice to the Director of Adult Protective Services,
18 Prince George's County Department of Social Services.

19 (b) If the Health Officer finds there has been serious or repeated violations of the
20 requirements of this Division, the applicable requirements of the Secretary of Health and Mental
21 Hygiene, or applicable State and County laws or regulations, or the Health Officer's enforcement
22 of this Division has been impeded, the Health Officer may enter an order for immediate
23 revocation of the license as required by this Division.

24 (c) If any order for license revocation is issued by the Health Officer pursuant to this
25 Section, a copy of the order shall be presented to the licensee setting forth the reasons for said
26 revocation. A copy shall be transmitted to the Director of Adult Protective Services. The
27 licensee shall be afforded an opportunity to be heard by the Health Officer or designated
28 representative within fourteen (14) days after said revocation. If violations are severe or life
29 threatening, the Health Officer may order the immediate evacuation of the residents and shall
30 immediately notify the Director of Adult Protective Services. Any person aggrieved by a
31 decision of the Department regarding license or regulatory requirements or by the Department's

1 denial of renewal, or revocation, of a license, or denial of a request for approval of new
2 construction, conversion, alteration, or addition, may appeal to the Board of Health.]

3 **Sec. 12-172. [Inspections, records.] Reserved.**

4 [(a) Every facility operated by a licensee and any premises proposed to be operated by an
5 applicant for a license, shall be open at all reasonable times for inspection by the Department.
6 Any building containing part or all of the congregate living facility and any surrounding
7 accessory buildings are considered part of the facility and are subject to inspection.

8 (b) At least once every six (6) months, the Department shall inspect each congregate living
9 facility licensed pursuant to this Division, and shall conduct as many additional inspections and
10 reinspections as are necessary for the enforcement of this Division.

11 (c) Every licensee shall maintain records and submit reports as may be required by the
12 regulations. Records and individual contracts shall be available for inspection by the Department
13 at all times.]

14 **Sec. 12-173. [Physical Requirements.] Reserved.**

15 [(a) Licensees of facilities served by private access drives shall be responsible for
16 maintaining these drives in passable condition at all times.

17 (b) All congregate living facilities shall comply with all applicable County ordinances.

18 (c) No resident shall reside in the basement unless direct and unobstructed access to the
19 outside and a minimum height of eight (8) feet are provided.

20 (d) In addition to all State and County laws, all congregate living facilities shall comply
21 with the regulations as attached hereto and made a part hereof, a copy of which shall be
22 maintained by the Clerk of the County Council as a permanent record, and which may be
23 amended from time to time, subject to Board of Health approval.

24 (e) When a congregate living facility is constructed or materially altered or when an
25 existing structure is converted for use as a congregate living facility, plans and specifications for
26 the construction, remodeling, or alteration shall be submitted to the Department and approved
27 before work is begun. This review does not satisfy other requirements concerning building
28 permits, inspections, or site plan approvals as required by this Code.]

29 **Sec. 12-174. [Management requirements, staffing.] Reserved.**

30 [(a) Twenty-four (24) hour staffing of the congregate living facility shall be provided.

1 (b) The licensee and all persons in responsible positions shall be eighteen (18) years of age
 2 or older and shall be certified by, or enrolled in, a health training course acceptable to the Health
 3 Department, or shall be the minimum age of twenty-one (21) years of age or older.

4 (c) The licensee or manager shall not have been convicted of a felony or have pled nolo
 5 contendere to a felony unless reviewed and approved by the Health Officer.

6 (d) The licensee shall give the Department assurance of financial responsibility to meet the
 7 requirements of this Division and to maintain minimum safety and comfort needs of the residents
 8 of the facility.

9 (e) The licensee shall supervise and be responsible for all persons working in the facility.

10 (f) The licensee shall provide, or employ sufficient and satisfactory personnel to provide,
 11 the following:

12 (1) Adequate sheltered care;

13 (2) Compliance with regulations;

14 (3) Cleaning, housekeeping, and general care of the property;

15 (4) Minimum safety and comfort needs of the residents;

16 (5) Notice to a physician and to persons signing the resident's contract of acute or
 17 physical illness or unusual occurrences regarding the resident.

18 (g) The licensee shall make provisions for qualified relief personnel during vacations or
 19 other periods of absence.

20 (h) The licensee shall charge the manager and/or staff to be familiar with the requirements
 21 of this Division. The licensee or manager shall also familiarize employees with the regulations
 22 required by this Division.

23 (i) The licensee shall make available to the Department such information as may be
 24 requested to insure that the facility is meeting the requirements of this Division.

25 (j) If the owner/lessee of the property is providing accommodations for relatives or
 26 persons other than sheltered care residents in the facility, these persons shall be counted in the
 27 census of total individuals.]

28
 29 **Sec. 12-175. [Admissions, discharge, persons not admissible.] Reserved.**

30 [(a) Before admission, a contract shall be executed between the licensee and the resident, or
 31 a guardian or responsible agency for the resident. The contract shall set forth:

1 (1) Services to be rendered;

2 (2) Rates for accommodations and/or services, when payments are to be made, and by
3 whom payments are to be made;

4 (3) Identification of personal physician and person(s) to be notified in an emergency.

5 (b) Each facility shall maintain a permanent bound residents' registry book in which the
6 name of each resident is entered in chronological order with the date of entry recorded.

7 (c) An admission record with a copy of the resident's contract shall be kept in a permanent
8 file and shall contain information such as the names of family members, guardian(s), or
9 responsible persons, the name(s) of physician(s); the respective address(es) and phone
10 number(s); and other essential information.

11 (d) The licensee may not refuse to discharge a resident when requested by a member of the
12 resident's immediate family, guardian, the Health Department or other responsible governmental
13 agency, or by the resident.

14 (e) The licensee shall notify the private or public agency or person(s) responsible for a
15 resident when the resident moves from the facility for any reason. The attending physician shall
16 also be notified.

17 (f) Facilities licensed under this Division may not admit a person requiring 24-hour
18 licensed nursing observation or nursing care as defined in Section 19-301, Health-General
19 Article, Annotated Code of Maryland.

20 (g) If the licensee has concern about the resident's level of care, the Health Department
21 shall be notified, or a nurse surveyor shall be requested, by the licensee to make a resident
22 evaluation.

23 (h) A facility shall not knowingly admit a person suffering from active tuberculosis or an
24 infectious communicable disease.

25 (i) The occurrence of an infectious disease, food poisoning, or dysentery, shall be
26 immediately reported to the Health Department by the licensee.

27 (j) A facility shall not accept or keep residents whose residency would constitute a direct
28 threat to the health or safety of themselves or other individuals, or whose residency would result
29 in substantial physical damage to the property of others.

1 (k) The following actions shall be taken if a serious mental incapacity or illness arises
2 which is not controlled by self-administered medication or if a resident becomes disturbed or
3 unmanageable:

4 (1) The resident shall immediately be placed under the direction of a physician's care.
5 If the physician does not hospitalize the resident and if the resident does not respond to treatment
6 provided by the physician within five (5) days, the resident shall be moved from the congregate
7 living facility to a facility where the required care can be provided.

8 (2) The licensee shall immediately notify the resident's family or guardian.

9 (3) The licensee shall notify the Health Department. Further notification to the Adult
10 Protective Services Division of the Department of Social Services by the Health Department
11 shall be made, as necessary.]

12 **Sec. 12-176. [Professional and personal services.] Reserved.**

13 [(a) Every resident of a facility shall be entitled to the services, when needed, of a physician
14 licensed to practice medicine in Maryland. The resident, or guardian acting in the resident's
15 behalf, shall be allowed choice of physician. The physician shall be allowed to visit the resident
16 as necessary to assure adequate medical supervision.

17 (b) All residents shall have individual rights, including the right to privacy with visitors or
18 other residents.

19 (c) Residents shall receive their mail unopened. Outgoing mail shall not be censored,
20 controlled, or restricted.

21 (d) Each resident shall be entitled to keep medications prescribed by a licensed physician
22 in a private receptacle in the resident's own quarters. All medication requiring refrigeration shall
23 be kept in a closed container in a refrigerator at a temperature not to exceed 45° F.

24 (e) The licensee shall make provisions to assure that prescribed medications are properly
25 used by reminding resident and by notifying family/guardian when refills are needed.

26 (f) Meals shall be provided in accordance with the regulations.

27 (g) If the diet of a resident is beyond the capability of the licensee, the resident, or guardian
28 acting in the resident's behalf, shall make other arrangements for the necessary care. If dietary
29 needs are beyond the ability of the licensee, the resident shall be moved from the congregate
30 living facility to a nursing home or appropriate facility.

1 (h) Every resident shall have the right to attend or not to attend religious services as they
2 choose. The resident's clergyman shall be permitted to visit at all reasonable hours. Privacy for
3 consultation with the clergyman shall be the right of every resident.]

4 SECTION 2. BE IT FURTHER ENACTED that the regulatory materials concerning
5 Congregate Living Facilities adopted pursuant to CB-38-1985 be and the same are hereby
6 repealed.

7 SECTION 3. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45)
8 calendar days after it becomes law.

Adopted this 21st day of May, 2002.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY: _____
Peter A. Shapiro
Chair

ATTEST:

Redis C. Floyd
Acting Clerk of the Council

APPROVED:

DATE: _____ BY: _____
Wayne K. Curry
County Executive

KEY:
Underscoring indicates language added to existing law.
[Brackets] indicate language deleted from existing law.