

Bill No. 35-02
Concerning: Nursing Homes – Family Councils
Revised: Nov. 26, 2002 Draft No. 7
Introduced: October 22, 2002
Enacted: November 26, 2002
Executive: December 5, 2002
Effective: March 6, 2003
Sunset Date: None
Ch. 36, Laws of Mont. Co. 2002

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmembers Ewing, Praisner, and Peterman

AN ACT to:

- (1) establish additional requirements for the effective operation of resident and family groups at nursing homes and certain other long-term-care facilities; and
- (2) generally amend County law regarding hospitals, nursing homes, and other long-term-care facilities.

By amending

Montgomery County Code
Chapter 25, Hospitals, Sanitariums, Nursing and Care Homes
Sections 25-1 and 25-24

And adding

Section 25-24A

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **25-1. Definitions.**

2 For the purposes of this Chapter, the following words and phrases have the
 3 following meanings:

4 * * *

5 Family council: A group that includes a family member, friend, or
 6 representative of 2 or more residents of a [[hospital,]] nursing home [[, personal
 7 care home,]] or [[domiciliary care home in the County, including any]] other
 8 facility [[defined in sections 1395i-3 or 1396r of Title 42 of the United States Code]]
 9 subject to Section 25-24A. A family council is [[not controlled]] led by residents and
 10 their families, not by the facility, and works to protect residents’ rights and improve
 11 residents’ quality of life.

12 * * *

13 **Article III. Health Standards and Regulations.**

14 **25-24. Application of article.**

15 [The regulations specified in this article are applicable] This Article applies to
 16 **hospitals, nursing homes, personal care homes and domiciliary care homes.** [The
 17 rules] State and federal law and regulations [of the state board of health and of mental
 18 hygiene] that apply to these institutions, except licensing procedures, are [hereby
 19 made a part of] incorporated into this [article, and the regulations contained in this
 20 article shall be applicable] Article. The other provisions of this Article apply only to
 21 the extent [to which they impose] that they impose higher standards or [greater
 22 minimum] stricter requirements than [state rules] State and federal law and
 23 regulations.

24 **25-24A. Family councils.**

25 (a) In this Section, “nursing home” includes nursing homes (as defined in
 26 Section 25-1) and any other facility in the County that is:

27 (1) required to be licensed under State law as a:

- 28 (A) comprehensive and extended care facility; or
- 29 (B) licensed assisted living facility [(including a “group
- 30 home” under Chapter 23A)]; or
- 31 (2) subject to sections 1395i-3 or 1396r of Title 42 of the United
- 32 States Code.

33 (b) Each [[institution subject to this Article]] **nursing home** must comply
 34 with federal law and regulations, including the Nursing Home Reform
 35 Act of 1987, that protect the rights of residents and their families and
 36 representatives to associate and to participate in resident and family
 37 groups, such as a **family council**. This requirement applies even if the
 38 [[institution]] **nursing home** is not otherwise subject to the federal law.

39 [[(b)]]

40 (c) The [[institution]] **nursing home** must consider and respond in writing
 41 to any written grievance or other written communication from a **family**
 42 **council** within 10 days after receiving the communication. [[The **family**
 43 **council** and the]] [[institution]] [[**nursing home** promptly must
 44 provide a copy of the communication and any response, respectively, to
 45 the]] [[State]] [[County’s Long-Term-Care Ombudsman]] [[and the
 46 **Director**]] [., The **nursing home** promptly must comply with a request
 47 by a licensing authority to review any or all communications to or from
 48 the **family council**.]]

49 [[(c)]]

50 (d) The [[institution]] **nursing home** must maintain a “regulatory” file and
 51 a “public” file containing duplicate copies of each communication and
 52 response described in subsection [[(b)]] (c) [., after deleting]]. Copies of
 53 the records in the regulatory file must be complete and unedited. The

54 same records in the public file must delete any information that
 55 identifies an individual resident.

56 (1) A resident or prospective resident, or any person representing
 57 either, may review the public file during normal business hours
 58 and at any other time that the **[[institution]] nursing home**
 59 agrees to make the **[[files]] file** available.

60 (2) The **nursing home** promptly must comply with a request by a
 61 licensing authority or the County’s Long-Term-Care
 62 Ombudsman to review any record in either file.

63 **[[d)]]**

64 (e) The **[[institution]] nursing home** must give each new or prospective
 65 resident the following written information provided by the **family**
 66 **council:**

67 (1) the name, address, and phone number of a current member of the
 68 **family council;**

69 (2) a brief description of the purpose and function of the **family**
 70 **council;** and

71 (3) instructions on how the resident or prospective resident may
 72 review the files described in subsection **[[c)]]** (d).

73 **[[f)]]** **A family council** may include additional categories of members if the
 74 resident, family, and resident-representative members of the **family**
 75 **council** agree to expand eligibility for membership and find that the
 76 additional members would promote the purposes of the **family**
 77 **council.]**

78 *Approved:*

79	/S/	December 2, 2002
	Steven A. Silverman, President, County Council	Date

80 *Approved:*

81	/S/	December 5, 2002
	Douglas M. Duncan, County Executive	Date

82 *This is a correct copy of Council action.*

83	/S/	December 9, 2002
	Mary A. Edgar, CMC, Clerk of the Council	Date
