

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**

Underlining

**[Single boldface brackets]**

Double underlining

**[[Double boldface brackets]]**

\* \* \*

*Heading or defined term.*

*Added to existing law by original bill.*

*Deleted from existing law by original bill.*

*Added by amendment.*

*Deleted from existing law or the bill by amendment.*

*Existing law unaffected by bill.*

*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   
Steven A. Silverman, President, County Council

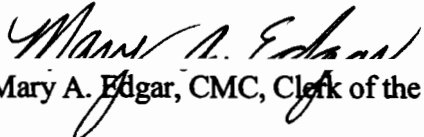
12/2/02  
Date

80 *Approved:*

81   
Douglas M. Duncan, County Executive

12/5/02  
Date

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

83   
Mary A. Edgar, CMC, Clerk of the Council

12/9/02  
Date