CHAPTER _______

1 AN ACT concerning

Health Care Facilities - Pain Management - The "Fifth Vital Sign!"

Health Care - Programs and Facilities - Pain Management

4 FOR the purpose of requiring health care facilities to assess and monitor pain as a vital sign in patients and residents; requiring certain documentation by health care facilities; requiring the Secretary of Health and Mental Hygiene to adopt certain regulations; adding the right to have pain assessed, managed, and treated to the patient's bill of rights for hospitals and related institutions; requiring certain other health care facilities to add pain management to any patient's bill of rights or similar document distributed; establishing a State Advisory Council on Pain Management; specifying the membership, terms, and purpose of the Advisory Council; authorizing the Advisory Council to consult with certain individuals and organization representatives; requiring the Advisory Council to issue certain reports on or before certain dates; providing for
the termination of a portion of this Act; requiring health care facilities to implement a certain pain management training program developed by the Department of Health and Mental Hygiene; requiring the Department to develop the pain management program; and generally relating to pain management and a State Advisory Council on Pain Management health care facilities.

BY repealing and reenacting, with amendments,


BY adding to


Preamble

WHEREAS, Estimates indicate that as many as 34 million people nationwide suffer from chronic intractable pain; and

WHEREAS, Experts acknowledge that patients may be victims of inadequate pain management as their needs are not met with proper treatment; and

WHEREAS, Not only is chronic intractable pain a life debilitating condition, it is a costly epidemic facing our nation; and

WHEREAS, The field of medicine is constantly evolving, and continuing education in pain management is essential to ensure a patient is receiving the best care possible; and

WHEREAS, State law and policy could play a role in facilitating effective pain management, thus serving the needs of the citizens of the State; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:
(A) Each administrator of a hospital is responsible for making available to each patient in the hospital a copy of the patient's bill of rights that the hospital adopts under the Joint Commission on Accreditation of Hospitals' guidelines.

(B) THE PATIENT'S BILL OF RIGHTS SHALL INCLUDE A STATEMENT THAT A PATIENT HAS A RIGHT TO EXPECT AND RECEIVE APPROPRIATE ASSESSMENT, MANAGEMENT, AND TREATMENT OF PAIN AS AN INTEGRAL COMPONENT OF THE PATIENT'S CARE.

19-343.

(a) In this section and §§ 19-344 and 19-345 of this subtitle, "facility" means a related institution that, under the rules and regulations of the Department, is a comprehensive care facility or an extended care facility.

(b) (1) The General Assembly intends to promote the interests and well-being of each resident of a facility.

(2) It is the policy of this State that, in addition to any other rights, each resident of a facility has the following basic rights:

(i) The right to be treated with consideration, respect, and full recognition of human dignity and individuality;

(ii) The right to receive treatment, care, and services that are adequate, appropriate, and in compliance with relevant State and federal laws, rules, and regulations;

(iii) The right to privacy;

(iv) The right to be free from mental and physical abuse;

(V) THE RIGHT TO EXPECT AND RECEIVE APPROPRIATE ASSESSMENT, MANAGEMENT, AND TREATMENT OF PAIN AS AN INTEGRAL COMPONENT OF THE PATIENT'S CARE;

[(v)] (VI) The right to be free from physical and chemical restraints, except for restraints that a physician authorizes for a clearly indicated medical need;

[(vi)] (VII) The right to receive respect and privacy in a medical care program; and

[(vii)] (VIII) The right to manage personal financial affairs.

(c) Each facility shall:
(1) Post, conspicuously in a public place, the policy set forth in subsection (b) of this section and the provisions in §§ 19-344(b) through (m), 19-345, and 19-346(i)(2) of this subtitle;

(2) Give a copy of the policy and those provisions:

(i) On admission, to the resident;

(ii) To the guardian, next of kin, or sponsoring agency of the resident; and

(iii) To a representative payee of the resident;

(3) Keep a receipt for the copy that is signed by the person who received the copy; and

(4) Provide appropriate staff training to carry out the policy and those provisions.

19-353.

A HEALTH CARE FACILITY THAT IS NOT COVERED UNDER § 19-342 OR § 19-343 OF THIS SUBTITLE SHALL INCLUDE IN A PATIENT'S BILL OF RIGHTS OR SIMILAR DOCUMENT THAT IS PROVIDED TO THE PATIENT OR RESIDENT A STATEMENT THAT A PATIENT OR RESIDENT HAS THE RIGHT TO EXPECT AND RECEIVE APPROPRIATE ASSESSMENT, MANAGEMENT, AND TREATMENT OF PAIN AS AN INTEGRAL COMPONENT OF THAT PATIENT'S OR RESIDENT'S CARE.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article - Health - General

SUBTITLE 16. ADVISORY COUNCIL ON PAIN MANAGEMENT.

13-1601.

THERE IS A STATE ADVISORY COUNCIL ON PAIN MANAGEMENT.

13-1602.

(A) (1) THE ADVISORY COUNCIL CONSISTS OF 13 MEMBERS.

(2) OF THE 13 MEMBERS:

(I) ONE SHALL BE A MEMBER OF THE SENATE OF MARYLAND APPOINTED BY THE PRESIDENT OF THE SENATE;

(II) ONE SHALL BE A MEMBER OF THE HOUSE OF DELEGATES APPOINTED BY THE SPEAKER OF THE HOUSE; AND
(III) 11 SHALL BE APPOINTED BY THE GOVERNOR.

(3) OF THE 11 MEMBERS APPOINTED BY THE GOVERNOR:

(I) ONE SHALL BE A REPRESENTATIVE OF THE DEPARTMENT OF
HEALTH AND MENTAL HYGIENE;

(II) ONE SHALL BE A REPRESENTATIVE OF THE ATTORNEY
GENERAL;

(III) ONE SHALL BE A PHYSICIAN CERTIFIED IN PAIN
MANAGEMENT;

(IV) ONE SHALL BE A CONSUMER;

(V) ONE SHALL BE A DENTIST;

(VI) ONE SHALL BE AN ETHICIST;

(VII) ONE SHALL BE A PHYSICIAN CERTIFIED IN GERIATRIC
MEDICINE;

(VIII) ONE SHALL BE A PEDIATRICIAN;

(IX) ONE SHALL BE A PHARMACIST; AND

(X) TWO SHALL BE REGISTERED NURSES WITH EXPERTISE IN
HOSPICE, ONCOLOGY, LONG-TERM CARE, ANESTHESIA, OR PAIN MANAGEMENT.

(B) (1) THE TERM OF A MEMBER IS 2 YEARS.

(2) IF A VACANCY OCCURS DURING THE TERM OF A MEMBER, THE
GOVERNOR SHALL APPOINT A SUCCESSOR WHO WILL SERVE ONLY FOR THE REST OF
THE TERM AND UNTIL ANOTHER SUCCESSOR IS APPOINTED AND QUALIFIES.

(C) THE GOVERNOR MAY REMOVE A MEMBER FOR INCOMPETENCE OR
MISCONDUCT.

13-1603.

THE ADVISORY COUNCIL SHALL ELECT A CHAIRMAN FROM AMONG THE
MEMBERS OF THE ADVISORY COUNCIL.

13-1604.

(A) A MAJORITY OF THE MEMBERS SERVING ON THE ADVISORY COUNCIL
REPRESENTS A QUORUM TO DO BUSINESS.

(B) (1) THE ADVISORY COUNCIL SHALL MEET AT LEAST FOUR TIMES A
YEAR, AT THE TIMES AND PLACES THAT IT DETERMINES.
THE DEPARTMENT SHALL PUBLISH NOTIFICATION OF THE MEETINGS.

A MEMBER OF THE ADVISORY COUNCIL:

MAY NOT RECEIVE COMPENSATION; BUT IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

THE SECRETARY SHALL DESIGNATE THE STAFF NECESSARY TO CARRY OUT THIS SUBTITLE.

THE PURPOSE OF THE ADVISORY COUNCIL SHALL BE TO PROVIDE ADVICE AND RECOMMENDATIONS WITH RESPECT TO PAIN MANAGEMENT POLICY, INCLUDING THE FOLLOWING:

ACUTE AND CHRONIC PAIN MANAGEMENT TREATMENT PRACTICES BY HEALTH CARE PROVIDERS IN MARYLAND;

STATE STATUTES AND REGULATIONS RELATING TO PAIN MANAGEMENT THERAPIES;

THE SANCTION AND USE OF ALTERNATIVE THERAPIES;

ACUTE AND CHRONIC PAIN MANAGEMENT EDUCATION PROVIDED BY MEDICAL, NURSING, PHARMACY, AND DENTAL SCHOOLS IN THIS STATE;

ACUTE AND CHRONIC PAIN MANAGEMENT NEEDS OF BOTH ADULTS AND CHILDREN;

DEVELOPMENT OF A PAIN MANAGEMENT RESOURCE COMPENDIUM AND A PALLIATIVE CARE HOT LINE; AND

OTHER ISSUES RELATING TO PAIN MANAGEMENT THAT THE ADVISORY COUNCIL DEEMS APPROPRIATE.

IN ACHIEVING ITS PURPOSE, THE ADVISORY COUNCIL MAY, AS APPROPRIATE, CONSULT WITH THE FOLLOWING INDIVIDUALS, ORGANIZATIONS, OR ENTITIES:

AN ACUPUNCTURIST;

THE AMERICAN ASSOCIATION OF RETIRED PERSONS;

THE DEPARTMENT OF AGING;

AN AIDS SPECIALIST;
THE AMERICAN CANCER SOCIETY;

THE ASSOCIATION OF MARYLAND HOSPITALS AND HEALTH SYSTEMS;

A CAREGIVER FOR AN INDIVIDUAL CURRENTLY BEING TREATED FOR CHRONIC PAIN;

A COMMUNITY PHARMACIST;

THE HEALTH CARE FACILITIES ASSOCIATION OF MARYLAND;

A HOME HEALTH REGISTERED NURSE;

THE HOSPICE NETWORK OF MARYLAND;

AN INDIVIDUAL CURRENTLY BEING TREATED FOR CHRONIC PAIN;

THE JOHNS HOPKINS UNIVERSITY SCHOOL OF MEDICINE;

A LONG-TERM CARE REGISTERED NURSE;

THE MARYLAND AMBULATORY SURGICAL ASSOCIATION;

THE MARYLAND PATIENT ADVOCACY GROUP;

THE MARYLAND PHARMACISTS ASSOCIATION;

THE MEDICAL AND CHIRURGICAL FACULTY OF MARYLAND;

THE MID-ATLANTIC NONPROFIT HEALTH AND HOUSING ASSOCIATION;

A NURSE ADMINISTRATOR;

AN ONCOLOGIST;

A PAIN SPECIALIST;

THE PHARMACEUTICAL RESEARCH AND MANUFACTURERS OF AMERICA;

A PHYSICAL THERAPIST;

A PSYCHIATRIST;

A PSYCHOLOGIST;

A RESPIRATORY THERAPIST;

THE STATE ACUPUNCTURE BOARD;
8       HOUSE BILL 423

1       (29)   THE STATE BOARD OF NURSING;

2       (30)   THE STATE BOARD OF PHARMACY;

3       (31)   THE STATE BOARD OF PHYSICIAN QUALITY ASSURANCE;

4       (32)   A SOCIAL WORKER;

5       (33)   A SURGEON;

6       (34)   THE UNITED SENIORS OF MARYLAND;

7       (35)   THE UNIVERSITY OF MARYLAND DENTAL SCHOOL;

8       (36)   A MARYLAND LAW SCHOOL;

9       (37)   THE UNIVERSITY OF MARYLAND SCHOOL OF MEDICINE;

10      (38)   THE UNIVERSITY OF MARYLAND SCHOOL OF PHARMACY;

11      (39)   THE AMERICAN PAIN FOUNDATION;

12      (40)   A PHYSICIAN WHO SPECIALIZES IN EMERGENCY MEDICINE;

13      (41)   A NURSE WHO SPECIALIZES IN EMERGENCY ROOM MEDICINE; AND

14      (42)   ANY OTHER INDIVIDUAL OR GROUP KNOWLEDGEABLE IN PAIN

15      MANAGEMENT.

16      (C)   (1)   ON OR BEFORE SEPTEMBER 30, 2003, THE ADVISORY COUNCIL SHALL

17      ISSUE AN INTERIM REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH §

18      2-1246 OF THE STATE GOVERNMENT ARTICLE, THAT INCLUDES RECOMMENDATIONS

19      ON PAIN MANAGEMENT ISSUES IN MARYLAND.

20      (2)   ON OR BEFORE SEPTEMBER 30, 2004, THE ADVISORY COUNCIL SHALL

21      ISSUE A FINAL REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1246

22      OF THE STATE GOVERNMENT ARTICLE, THAT INCLUDES RECOMMENDATIONS ON

23      PAIN MANAGEMENT ISSUES IN MARYLAND.

24      SUBTITLE 3C. PAIN MANAGEMENT.

25      19-3C-01.

26      (A)   IN THIS SECTION, "HEALTH CARE FACILITY" HAS THE MEANING PROVIDED

27      UNDER § 19-114 OF THIS TITLE.

28      (B)   IN ADDITION TO MONITORING BLOOD PRESSURE, PULSE, RESPIRATION,

29      AND TEMPERATURE, A HEALTH CARE FACILITY, AS DEFINED UNDER § 19-114 OF THIS

30      TITLE, SHALL:
ROUTINELY ASSESS AND MONITOR PAIN WHEN MONITORING THE VITAL SIGNS OF A PATIENT OR RESIDENT; AND

MAINTAIN WRITTEN POLICIES AND PROCEDURES FOR THE ASSESSMENT AND MONITORING OF PAIN.

IN MONITORING PAIN IN A PATIENT OR RESIDENT, A HEALTH CARE FACILITY SHALL:

ROUTINELY INQUIRE WHETHER THE PATIENT OR RESIDENT IS IN PAIN;

ASK THE PATIENT OR RESIDENT TO RATE THE PATIENT'S OR RESIDENT'S DEGREE OF PAIN;

ROUTINELY RECORD LEVELS OF PAIN INTENSITY ON THE PATIENT'S OR RESIDENT'S CHART;

REASSESS THE PATIENT OR RESIDENT FOR PAIN AFTER THE ADMINISTRATION OF ANY TREATMENT OR MEDICATION FOR THE RELIEF OF PAIN; AND

RECORD THE EFFECT OF ANY TREATMENT OR MEDICATION ADMINISTERED TO THE PATIENT OR RESIDENT FOR RELIEF OF PAIN.

THE DEPARTMENT SHALL DEVELOP A PAIN MANAGEMENT TRAINING PROGRAM TO ENSURE THE COMPETENCE IN PAIN MANAGEMENT OF INDIVIDUALS THAT PROVIDE MEDICAL CARE DIRECTLY TO PATIENTS IN HEALTH CARE FACILITIES.

THE PROGRAM MAY INCLUDE:

1. APPROVED IN-HOUSE TRAINING AT THE HEALTH CARE FACILITY; AND

2. APPROVED TRAINING PROGRAMS, CLASSES, OR SEMINARS OUTSIDE OF THE FACILITY.

A HEALTH CARE FACILITY SHALL:

IMPLEMENT THE PAIN MANAGEMENT TRAINING PROGRAM DEVELOPED BY THE DEPARTMENT; AND

REQUIRE ATTENDANCE IN THE PROGRAM BY ALL EMPLOYEES OR INDIVIDUALS WHO WORK IN THE HEALTH CARE FACILITY AND PROVIDE MEDICAL CARE DIRECTLY TO PATIENTS.

FACILITIES WHO ARE CURRENTLY ACCREDITED BY THE JOINT COMMISSION ON ACCREDITATION OF HEALTH CARE ORGANIZATIONS ("JCAHO") AND WHO HAVE MET THE PAIN MANAGEMENT STANDARDS ESTABLISHED BY THAT ORGANIZATION SHALL BE DEEMED IN COMPLIANCE WITH THIS SUBTITLE.
THE SECRETARY SHALL ADOPT REGULATIONS TO IMPLEMENT THE
PROVISIONS OF THIS SUBTITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
October 1, 2002.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
October 1, 2002. Section 2 of this Act shall remain effective for a period of 2 years and,
at the end of September 30, 2004, with no further action required by the General
Assembly, Section 2 of this Act shall be abrogated and of no further force and effect.