

HOUSE BILL 423

Unofficial Copy
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2002 Regular Session
(2r1471)

ENROLLED BILL

-- Environmental Matters/Education, Health, and Environmental Affairs --

Introduced by **Delegates Pitkin, Shriver, Donoghue, Barkley, Bobo, Boutin, Clagett, Conroy, DeCarlo, Dobson, Dypski, Frush, Healey, Heller, Howard, Hubers, V. Jones, Menes, Riley, Rosenberg, Rosso, Sophocleus, Turner, and Walkup**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER 368

1 AN ACT concerning

2 **~~Health Care Facilities - Pain Management - The "Fifth Vital Sign"~~**
3 **Health Care - Programs and Facilities - Pain Management**

4 FOR the purpose of ~~requiring health care facilities to assess and monitor pain as a~~
5 ~~vital sign in patients and residents; requiring certain documentation by health~~
6 ~~care facilities; requiring the Secretary of Health and Mental Hygiene to adopt~~
7 ~~certain regulations;~~ adding the right to have pain assessed, managed, and
8 treated to the patient's bill of rights for hospitals and related institutions;
9 requiring certain other health care facilities to add pain management to any
10 patient's bill of rights or similar document distributed; establishing a State
11 Advisory Council on Pain Management; specifying the membership, terms, and
12 purpose of the Advisory Council; authorizing the Advisory Council to consult
13 with certain individuals and organization representatives; requiring the
14 Advisory Council to issue certain reports on or before certain dates; providing for

1 ~~the termination of a portion of this Act; requiring health care facilities to~~
 2 ~~implement a certain pain management training program developed by the~~
 3 ~~Department of Health and Mental Hygiene; requiring the Department to~~
 4 ~~develop the pain management program; and generally relating to pain~~
 5 ~~management and a State Advisory Council on Pain Management health care~~
 6 ~~facilities.~~

7 BY repealing and reenacting, with amendments,
 8 Article - Health - General
 9 Section 19-342 and 19-343
 10 Annotated Code of Maryland
 11 (2000 Replacement Volume and 2001 Supplement)

12 BY adding to
 13 Article - Health - General
 14 Section 19-353; and 13-601 through 13-605, inclusive, to be under the new
 15 subtitle "Subtitle 16. Advisory Council on Pain Management"; and
 16 ~~19-3C-01 to be under the new subtitle "Subtitle 3C. Pain Management"~~
 17 Annotated Code of Maryland
 18 (2000 Replacement Volume and 2001 Supplement)

19 Preamble

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

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

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

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

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

31 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 32 MARYLAND, That the Laws of Maryland read as follows:

1 **Article - Health - General**

2 19-342.

3 (A) Each administrator of a hospital is responsible for making available to
4 each patient in the hospital a copy of the patient's bill of rights that the hospital
5 adopts under the Joint Commission on Accreditation of Hospitals' guidelines.

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

10 19-343.

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

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

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

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

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

23 (iii) The right to privacy;

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

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

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

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

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

33 (c) Each facility shall:

1 (1) Post, conspicuously in a public place, the policy set forth in subsection
 2 (b) of this section and the provisions in §§ 19-344(b) through (m), 19-345, and
 3 19-346(i)(2) of this subtitle;

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

5 (i) On admission, to the resident;

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

8 (iii) To a representative payee of the resident;

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

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

13 19-353.

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

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

22 Article - Health - General

23 SUBTITLE 16. ADVISORY COUNCIL ON PAIN MANAGEMENT.

24 13-1601.

25 THERE IS A STATE ADVISORY COUNCIL ON PAIN MANAGEMENT.

26 13-1602.

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

28 (2) OF THE 13 MEMBERS:

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

31 (II) ONE SHALL BE A MEMBER OF THE HOUSE OF DELEGATES
 32 APPOINTED BY THE SPEAKER OF THE HOUSE; AND

1 (III) 11 SHALL BE APPOINTED BY THE GOVERNOR.

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

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

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

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

9 (IV) ONE SHALL BE A CONSUMER;

10 (V) ONE SHALL BE A DENTIST;

11 (VI) ONE SHALL BE AN ETHICIST;

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

14 (VIII) ONE SHALL BE A PEDIATRICIAN;

15 (IX) ONE SHALL BE A PHARMACIST; AND

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

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

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

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

24 13-1603.

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

27 13-1604.

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

30 (B) (1) THE ADVISORY COUNCIL SHALL MEET AT LEAST FOUR TIMES A
31 YEAR, AT THE TIMES AND PLACES THAT IT DETERMINES.

1 (2) THE DEPARTMENT SHALL PUBLISH NOTIFICATION OF THE
2 MEETINGS.

3 (C) A MEMBER OF THE ADVISORY COUNCIL:

4 (1) MAY NOT RECEIVE COMPENSATION; BUT

5 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE
6 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

7 (D) THE SECRETARY SHALL DESIGNATE THE STAFF NECESSARY TO CARRY
8 OUT THIS SUBTITLE.

9 13-1605.

10 (A) THE PURPOSE OF THE ADVISORY COUNCIL SHALL BE TO PROVIDE ADVICE
11 AND RECOMMENDATIONS WITH RESPECT TO PAIN MANAGEMENT POLICY,
12 INCLUDING THE FOLLOWING:

13 (1) ACUTE AND CHRONIC PAIN MANAGEMENT TREATMENT PRACTICES
14 BY HEALTH CARE PROVIDERS IN MARYLAND;

15 (2) STATE STATUTES AND REGULATIONS RELATING TO PAIN
16 MANAGEMENT THERAPIES;

17 (3) THE SANCTION AND USE OF ALTERNATIVE THERAPIES;

18 (4) ACUTE AND CHRONIC PAIN MANAGEMENT EDUCATION PROVIDED BY
19 MEDICAL, NURSING, PHARMACY, AND DENTAL SCHOOLS IN THIS STATE;

20 (5) ACUTE AND CHRONIC PAIN MANAGEMENT NEEDS OF BOTH ADULTS
21 AND CHILDREN;

22 (6) DEVELOPMENT OF A PAIN MANAGEMENT RESOURCE COMPENDIUM
23 AND A PALLIATIVE CARE HOT LINE; AND

24 (7) OTHER ISSUES RELATING TO PAIN MANAGEMENT THAT THE
25 ADVISORY COUNCIL DEEMS APPROPRIATE.

26 (B) IN ACHIEVING ITS PURPOSE, THE ADVISORY COUNCIL MAY, AS
27 APPROPRIATE, CONSULT WITH THE FOLLOWING INDIVIDUALS, ORGANIZATIONS, OR
28 ENTITIES:

29 (1) AN ACUPUNCTURIST;

30 (2) THE AMERICAN ASSOCIATION OF RETIRED PERSONS;

31 (3) THE DEPARTMENT OF AGING;

32 (4) AN AIDS SPECIALIST;

- 1 (5) THE AMERICAN CANCER SOCIETY;
- 2 (6) THE ASSOCIATION OF MARYLAND HOSPITALS AND HEALTH
3 SYSTEMS;
- 4 (7) A CAREGIVER FOR AN INDIVIDUAL CURRENTLY BEING TREATED FOR
5 CHRONIC PAIN;
- 6 (8) A COMMUNITY PHARMACIST;
- 7 (9) THE HEALTH CARE FACILITIES ASSOCIATION OF MARYLAND;
- 8 (10) A HOME HEALTH REGISTERED NURSE;
- 9 (11) THE HOSPICE NETWORK OF MARYLAND;
- 10 (12) AN INDIVIDUAL CURRENTLY BEING TREATED FOR CHRONIC PAIN;
- 11 (13) THE JOHNS HOPKINS UNIVERSITY SCHOOL OF MEDICINE;
- 12 (14) A LONG-TERM CARE REGISTERED NURSE;
- 13 (15) THE MARYLAND AMBULATORY SURGICAL ASSOCIATION;
- 14 (16) THE MARYLAND PATIENT ADVOCACY GROUP;
- 15 (17) THE MARYLAND PHARMACISTS ASSOCIATION;
- 16 (18) THE MEDICAL AND CHIRURGICAL FACULTY OF MARYLAND;
- 17 (19) THE MID-ATLANTIC NONPROFIT HEALTH AND HOUSING
18 ASSOCIATION;
- 19 (20) A NURSE ADMINISTRATOR;
- 20 (21) AN ONCOLOGIST;
- 21 (22) A PAIN SPECIALIST;
- 22 (23) THE PHARMACEUTICAL RESEARCH AND MANUFACTURERS OF
23 AMERICA;
- 24 (24) A PHYSICAL THERAPIST;
- 25 (25) A PSYCHIATRIST;
- 26 (26) A PSYCHOLOGIST;
- 27 (27) A RESPIRATORY THERAPIST;
- 28 (28) THE STATE ACUPUNCTURE BOARD;

1 (1) ~~ROUTINELY ASSESS AND MONITOR PAIN WHEN MONITORING THE~~
2 ~~VITAL SIGNS OF A PATIENT OR RESIDENT; AND~~

3 (2) ~~MAINTAIN WRITTEN POLICIES AND PROCEDURES FOR THE~~
4 ~~ASSESSMENT AND MONITORING OF PAIN.~~

5 (C) ~~IN MONITORING PAIN IN A PATIENT OR RESIDENT, A HEALTH CARE~~
6 ~~FACILITY SHALL:~~

7 (1) ~~ROUTINELY INQUIRE WHETHER THE PATIENT OR RESIDENT IS IN~~
8 ~~PAIN;~~

9 (2) ~~ASK THE PATIENT OR RESIDENT TO RATE THE PATIENT'S OR~~
10 ~~RESIDENT'S DEGREE OF PAIN;~~

11 (3) ~~ROUTINELY RECORD LEVELS OF PAIN INTENSITY ON THE PATIENT'S~~
12 ~~OR RESIDENT'S CHART;~~

13 (4) ~~REASSESS THE PATIENT OR RESIDENT FOR PAIN AFTER THE~~
14 ~~ADMINISTRATION OF ANY TREATMENT OR MEDICATION FOR THE RELIEF OF PAIN;~~
15 ~~AND~~

16 (5) ~~RECORD THE EFFECT OF ANY TREATMENT OR MEDICATION~~
17 ~~ADMINISTERED TO THE PATIENT OR RESIDENT FOR RELIEF OF PAIN.~~

18 (D) (1) (I) ~~THE DEPARTMENT SHALL DEVELOP A PAIN MANAGEMENT~~
19 ~~TRAINING PROGRAM TO ENSURE THE COMPETENCE IN PAIN MANAGEMENT OF~~
20 ~~INDIVIDUALS THAT PROVIDE MEDICAL CARE DIRECTLY TO PATIENTS IN HEALTH~~
21 ~~CARE FACILITIES.~~

22 (II) ~~THE PROGRAM MAY INCLUDE:~~

23 1. ~~APPROVED IN HOUSE TRAINING AT THE HEALTH CARE~~
24 ~~FACILITY; AND~~

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

27 (2) ~~A HEALTH CARE FACILITY SHALL:~~

28 (I) ~~IMPLEMENT THE PAIN MANAGEMENT TRAINING PROGRAM~~
29 ~~DEVELOPED BY THE DEPARTMENT; AND~~

30 (II) ~~REQUIRE ATTENDANCE IN THE PROGRAM BY ALL EMPLOYEES~~
31 ~~OR INDIVIDUALS WHO WORK IN THE HEALTH CARE FACILITY AND PROVIDE MEDICAL~~
32 ~~CARE DIRECTLY TO PATIENTS.~~

33 (E) ~~FACILITIES WHO ARE CURRENTLY ACCREDITED BY THE JOINT~~
34 ~~COMMISSION ON ACCREDITATION OF HEALTH CARE ORGANIZATIONS ("JCAHO") AND~~
35 ~~WHO HAVE MET THE PAIN MANAGEMENT STANDARDS ESTABLISHED BY THAT~~
36 ~~ORGANIZATION SHALL BE DEEMED IN COMPLIANCE WITH THIS SUBTITLE.~~

1 ~~(F) THE SECRETARY SHALL ADOPT REGULATIONS TO IMPLEMENT THE~~
2 ~~PROVISIONS OF THIS SUBTITLE.~~

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

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