

HOUSE BILL 286

J3

11r1230

By: **Delegates Morhaim and Kipke**

Introduced and read first time: February 1, 2011

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Hospitals and Freestanding Ambulatory Care Facilities – Practitioner**
3 **Performance Evaluation**

4 FOR the purpose of requiring hospitals, as a condition of licensure, to establish a
5 certain practitioner performance evaluation process and to analyze the results
6 of the process; requiring the practitioner performance evaluation process to
7 include a certain review of care; requiring hospitals to take into account the
8 results of the practitioner performance evaluation process for a member of the
9 medical staff in a certain reappointment process; establishing a certain fine for
10 certain noncompliance; establishing requirements for practitioner performance
11 evaluation procedures in freestanding ambulatory care facilities; making
12 certain stylistic changes; and generally relating to practitioner performance
13 evaluation in hospitals and freestanding ambulatory care facilities.

14 BY repealing and reenacting, without amendments,
15 Article – Health – General
16 Section 19–319(a) and 19–3B–02(a)
17 Annotated Code of Maryland
18 (2009 Replacement Volume and 2010 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article – Health – General
21 Section 19–319(e)
22 Annotated Code of Maryland
23 (2009 Replacement Volume and 2010 Supplement)
24 (As enacted by Chapters 90 and 91 of the Acts of the General Assembly of 2009)

25 BY repealing and reenacting, with amendments,
26 Article – Health – General
27 Section 19–3B–03(a)
28 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2009 Replacement Volume and 2010 Supplement)

2 BY adding to

3 Article – Health – General

4 Section 19–319(i)

5 Annotated Code of Maryland

6 (2009 Replacement Volume and 2010 Supplement)

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

9 **Article – Health – General**

10 19–319.

11 (a) To qualify for a license, an applicant and the hospital or related
12 institution to be operated shall meet the requirements of this section.

13 (e) (1) In this subsection, “uniform standard credentialing form” means:

14 (i) The form designated by the Secretary through regulation for
15 credentialing physicians who seek to be employed by or have staff privileges at a
16 hospital; or

17 (ii) The uniform credentialing form that the Insurance
18 Commissioner designates under § 15–112.1 of the Insurance Article.

19 (2) As a condition of licensure, each hospital shall:

20 (i) Establish a credentialing process for the physicians who are
21 employed by or who have staff privileges at the hospital; and

22 (ii) Use the uniform standard credentialing form as the initial
23 application of a physician seeking to be credentialed.

24 (3) Use of the uniform standard credentialing form does not preclude a
25 hospital from requiring supplemental or additional information as part of the
26 hospital’s credentialing process.

27 (4) The Secretary shall, by regulation and in consultation with
28 hospitals, physicians, interested community and advocacy groups, and representatives
29 of the Maryland Defense Bar and Plaintiffs’ Bar, establish minimum standards for a
30 credentialing process which shall include:

31 (i) A formal written appointment process documenting the
32 physician’s education, clinical expertise, licensure history, insurance history, medical
33 history, claims history, and professional experience.

1 (ii) A requirement that an initial appointment to staff not be
2 complete until the physician has successfully completed a probationary period.

3 (iii) A formal, written reappointment process to be conducted at
4 least every 2 years. The reappointment process shall document the physician's pattern
5 of performance by analyzing [claims filed against the physician, data dealing with
6 utilization, quality, and risk, a review of clinical skills, adherence to hospital bylaws,
7 policies and procedures, compliance with continuing education requirements, and
8 mental and physical status]:

- 9 1. CLAIMS FILED AGAINST THE PHYSICIAN;
- 10 2. DATA DEALING WITH UTILIZATION, QUALITY, AND
11 RISK;
- 12 3. CLINICAL SKILLS;
- 13 4. ADHERENCE TO HOSPITAL BYLAWS, POLICIES,
14 AND PROCEDURES;
- 15 5. COMPLIANCE WITH CONTINUING EDUCATION
16 REQUIREMENTS;
- 17 6. MENTAL AND PHYSICAL STATUS; AND
- 18 7. THE RESULTS OF THE PRACTITIONER
19 PERFORMANCE EVALUATION PROCESS UNDER SUBSECTION (I) OF THIS
20 SECTION.

21 (5) If requested by the Department, a hospital shall provide
22 documentation that, prior to employing or granting privileges to a physician, the
23 hospital has complied with the requirements of this subsection and that, prior to
24 renewing employment or privileges, the hospital has complied with the requirements
25 of this subsection.

26 (6) If a hospital fails to establish or maintain a credentialing process
27 required under this subsection, the Secretary may impose the following penalties:

- 28 (i) Delicensure of the hospital; or
- 29 (ii) \$500 per day for each day the violation continues.

30 (I) (1) AS A CONDITION OF LICENSURE, EACH HOSPITAL SHALL
31 ESTABLISH A PRACTITIONER PERFORMANCE EVALUATION PROCESS THAT

1 OBJECTIVELY EVALUATES THE PERFORMANCE OF EACH MEMBER OF THE
2 MEDICAL STAFF AT THE HOSPITAL.

3 (2) THE PRACTITIONER PERFORMANCE EVALUATION PROCESS
4 SHALL INCLUDE A REVIEW OF CARE PROVIDED TO PATIENTS AT THE HOSPITAL
5 BY THE MEMBERS OF THE MEDICAL STAFF.

6 (3) THE REVIEW OF CARE SHALL:

7 (I) BE UNDERTAKEN FOR CASES CHOSEN AT RANDOM AND
8 FOR CASES WITH UNEXPECTED ADVERSE OUTCOMES;

9 (II) BE BASED ON OBJECTIVE REVIEW STANDARDS;

10 (III) INCLUDE A REVIEW OF THE APPROPRIATENESS OF THE
11 PLAN OF CARE FOR THE PATIENT, PARTICULARLY ANY MEDICAL PROCEDURES
12 PERFORMED ON THE PATIENT, IN RELATION TO THE PATIENT'S CONDITION;

13 (IV) BE CONDUCTED BY MEMBERS OF THE MEDICAL STAFF
14 WHO:

15 1. ARE OF THE SAME SPECIALTY AS THE MEMBER OF
16 THE MEDICAL STAFF UNDER REVIEW;

17 2. HAVE BEEN TRAINED TO PERFORM
18 PRACTITIONER PERFORMANCE EVALUATION; AND

19 3. ARE NOT OTHERWISE ASSOCIATED WITH THE
20 CASE UNDER REVIEW.

21 (4) A HOSPITAL SHALL TAKE INTO ACCOUNT THE RESULTS OF
22 THE PRACTITIONER PERFORMANCE EVALUATION PROCESS FOR A MEMBER OF
23 THE MEDICAL STAFF IN THE REAPPOINTMENT PROCESS ESTABLISHED UNDER
24 SUBSECTION (E) OF THIS SECTION.

25 (5) IF A HOSPITAL FAILS TO COMPLY WITH THE REQUIREMENTS
26 OF THIS SUBSECTION, THE SECRETARY MAY IMPOSE A FINE OF UP TO \$500 PER
27 DAY PER VIOLATION FOR EACH DAY A VIOLATION CONTINUES.

28 19-3B-02.

29 (a) A freestanding ambulatory care facility may not operate in the State
30 unless the Secretary has granted the facility a license.

1 19-3B-03.

2 (a) (1) After consultation with representatives of payors, health care
3 practitioners, and ambulatory care facilities, the Secretary shall by regulation
4 establish:

5 [(1)] (I) Procedures to implement the provisions of this subtitle; and

6 [(2)] (II) Standards to ensure quality of care and patient safety that
7 shall include:

8 [(i)] 1. Procedures for credentialing and [peer review]
9 PRACTITIONER PERFORMANCE EVALUATION;

10 [(ii)] 2. Qualifications of health care practitioners and support
11 personnel;

12 [(iii)] 3. Procedures to be followed in the event of an
13 emergency, including a requirement that in the event of an emergency the patient be
14 transported to the nearest appropriate emergency care facility;

15 [(iv)] 4. Procedures for quality control of any biomedical
16 equipment;

17 [(v)] 5. Procedures for postoperative recovery;

18 [(vi)] 6. Procedures for discharge; and

19 [(vii)] 7. Any other procedures that the Secretary considers
20 necessary for quality of care and patient safety.

21 (2) THE PROCEDURES FOR PRACTITIONER PERFORMANCE
22 EVALUATION REQUIRED UNDER PARAGRAPH (1)(II)1 OF THIS SUBSECTION
23 SHALL BE SUBSTANTIALLY THE SAME AS THE PROCEDURES FOR PRACTITIONER
24 PERFORMANCE EVALUATION REQUIRED FOR HOSPITALS UNDER § 19-319 OF
25 THIS TITLE.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 2011.