

HOUSE BILL 286

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11r1230

By: **Delegates Morhaim and Kipke**

Introduced and read first time: February 1, 2011

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted with floor amendments

Read second time: March 16, 2011

CHAPTER _____

1 AN ACT concerning

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

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

16 BY repealing and reenacting, without amendments,
17 Article – Health – General
18 Section 19–319(a) and 19–3B–02(a)
19 Annotated Code of Maryland
20 (2009 Replacement Volume and 2010 Supplement)

21 BY repealing and reenacting, with amendments,
22 Article – Health – General
23 Section 19–319(e)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Annotated Code of Maryland
2 (2009 Replacement Volume and 2010 Supplement)
3 (As enacted by Chapters 90 and 91 of the Acts of the General Assembly of 2009)

4 BY repealing and reenacting, with amendments,
5 Article – Health – General
6 Section 19–3B–03(a)
7 Annotated Code of Maryland
8 (2009 Replacement Volume and 2010 Supplement)

9 BY adding to
10 Article – Health – General
11 Section 19–319(i)
12 Annotated Code of Maryland
13 (2009 Replacement Volume and 2010 Supplement)

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

16 **Article – Health – General**

17 19–319.

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

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

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

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

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

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

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

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

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

5 (i) A formal written appointment process documenting the
6 physician's education, clinical expertise, licensure history, insurance history, medical
7 history, claims history, and professional experience.

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

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

- 16 1. **CLAIMS FILED AGAINST THE PHYSICIAN;**
- 17 2. **DATA DEALING WITH UTILIZATION, QUALITY, AND**
18 **RISK;**
- 19 3. **CLINICAL SKILLS;**
- 20 4. **ADHERENCE TO HOSPITAL BYLAWS, POLICIES,**
21 **AND PROCEDURES;**
- 22 5. **COMPLIANCE WITH CONTINUING EDUCATION**
23 **REQUIREMENTS;**
- 24 6. **MENTAL AND PHYSICAL STATUS; AND**
- 25 7. **THE RESULTS OF THE PRACTITIONER**
26 **PERFORMANCE EVALUATION PROCESS UNDER SUBSECTION (I) OF THIS**
27 **SECTION.**

28 (5) If requested by the Department, a hospital shall provide
29 documentation that, prior to employing or granting privileges to a physician, the
30 hospital has complied with the requirements of this subsection and that, prior to
31 renewing employment or privileges, the hospital has complied with the requirements
32 of this subsection.

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

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

3 (I) (1) AS A CONDITION OF LICENSURE, EACH HOSPITAL SHALL
4 ESTABLISH A PRACTITIONER PERFORMANCE EVALUATION PROCESS THAT
5 OBJECTIVELY EVALUATES THE PERFORMANCE OF EACH MEMBER OF THE
6 MEDICAL STAFF AT THE HOSPITAL.

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

10 (3) THE REVIEW OF CARE SHALL:

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

13 (II) BE BASED ON OBJECTIVE REVIEW STANDARDS;

14 (III) INCLUDE A REVIEW OF THE APPROPRIATENESS OF THE
15 PLAN OF CARE FOR THE PATIENT, PARTICULARLY ANY MEDICAL PROCEDURES
16 PERFORMED ON THE PATIENT, IN RELATION TO THE PATIENT'S CONDITION; AND

17 (IV) BE CONDUCTED BY MEMBERS OF THE MEDICAL STAFF
18 OR, AT THE DISCRETION OF THE HOSPITAL, EXTERNAL REVIEWERS, WHO:

19 1. ARE OF THE SAME SPECIALTY AS THE MEMBER OF
20 THE MEDICAL STAFF UNDER REVIEW;

21 2. HAVE BEEN TRAINED TO PERFORM
22 PRACTITIONER PERFORMANCE EVALUATION; AND

23 3. ARE NOT OTHERWISE ASSOCIATED WITH THE
24 CASE UNDER REVIEW.

25 (4) A HOSPITAL SHALL TAKE INTO ACCOUNT THE RESULTS OF
26 THE PRACTITIONER PERFORMANCE EVALUATION PROCESS FOR A MEMBER OF
27 THE MEDICAL STAFF IN THE REAPPOINTMENT PROCESS ESTABLISHED UNDER
28 SUBSECTION (E) OF THIS SECTION.

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

1 19-3B-02.

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

4 19-3B-03.

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

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

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

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

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

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

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

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

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

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

24 (2) THE PROCEDURES FOR PRACTITIONER PERFORMANCE
25 EVALUATION REQUIRED UNDER PARAGRAPH (1)(II)1 OF THIS SUBSECTION
26 SHALL BE SUBSTANTIALLY THE SAME AS THE PROCEDURES FOR PRACTITIONER
27 PERFORMANCE EVALUATION REQUIRED FOR HOSPITALS UNDER ~~§ 19-319 OF~~
28 THIS TITLE INCLUDE A REVIEW OF CARE PROVIDED TO PATIENTS AT THE
29 FREESTANDING AMBULATORY CARE FACILITY BY MEMBERS OF THE MEDICAL
30 STAFF.

31 (3) THE REVIEW OF CARE SHALL:

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

3 (II) BE BASED ON OBJECTIVE REVIEW STANDARDS;

4 (III) INCLUDE A REVIEW OF THE APPROPRIATENESS OF THE
 5 PLAN OF CARE FOR THE PATIENT, PARTICULARLY ANY MEDICAL PROCEDURES
 6 PERFORMED ON THE PATIENT, IN RELATION TO THE PATIENT'S CONDITION; AND

7 (IV) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS
 8 SUBSECTION, BE CONDUCTED BY AT LEAST TWO MEMBERS OF THE MEDICAL
 9 STAFF WHO:

10 1. ~~ARE~~ AS APPROPRIATE, ARE OF THE SAME
 11 SPECIALTY AS THE MEMBER OF THE MEDICAL STAFF UNDER REVIEW; AND

12 2. HAVE BEEN TRAINED IN THE FREESTANDING
 13 AMBULATORY CARE FACILITY'S POLICIES AND PROCEDURES REGARDING
 14 PRACTITIONER PERFORMANCE EVALUATION.

15 (4) A REVIEW OF THE CARE PROVIDED BY A MEMBER OF THE
 16 MEDICAL STAFF WHO IS A SOLO PRACTITIONER ~~OR WHO PRACTICES IN A SINGLE~~
 17 ~~PRACTICE OWNED FREESTANDING AMBULATORY CARE FACILITY~~ SHALL BE
 18 CONDUCTED BY AN EXTERNAL REVIEWER.

19 (5) A FREESTANDING AMBULATORY CARE FACILITY SHALL TAKE
 20 INTO ACCOUNT THE RESULTS OF THE PRACTITIONER PERFORMANCE
 21 EVALUATION PROCESS FOR A MEMBER OF THE MEDICAL STAFF IN THE
 22 REAPPOINTMENT PROCESS.

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.