

# HOUSE BILL 581

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By: ~~Delegates Hubbard, Bobo, Cullison, Donoghue, Pena-Melnyk, and V. Turner~~ V. Turner, Hammen, Pendergrass, Bromwell, Costa, Elliott, Frank, Kach, A. Kelly, Krebs, McDonough, Morhaim, Murphy, Nathan-Pulliam, Oaks, Ready, Reznik, and Tarrant

Introduced and read first time: January 31, 2013

Assigned to: Health and Government Operations

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 19, 2013

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Hospitals – Establishment of Palliative Care Pilot Programs – ~~Required~~**

3 FOR the purpose of ~~requiring certain hospitals to implement a certain palliative care~~  
4 ~~program on or before a certain date~~; providing for the establishment of a certain  
5 number of palliative care pilot programs in certain hospitals in the State;  
6 requiring the Maryland Health Care Commission to select the pilot programs in  
7 a certain manner; requiring certain palliative care pilot programs to collaborate  
8 with certain providers to deliver care, gather certain data, and report certain  
9 information to the Maryland Health Care Commission; requiring the Maryland  
10 Health Care Commission to consult with certain palliative care pilot programs  
11 and certain stakeholders to develop certain core data measures and certain  
12 reporting standards; requiring ~~the palliative care program~~ certain palliative  
13 care pilot programs to include certain policies and procedures; requiring certain  
14 counseling about palliative care to include certain information regarding certain  
15 rights of patients; ~~requiring the Department of Health and Mental Hygiene to~~  
16 adopt certain regulations on or before a certain date; prohibiting certain  
17 regulations from requiring a palliative care program to be led by a certain  
18 physician; ~~requiring the Department to conduct a certain survey of certain~~  
19 palliative care programs at certain intervals; requiring the Maryland Hospital  
20 Association to provide a certain report to the General Assembly on or before a  
21 certain date; requiring the Maryland Health Care Commission, on or before a  
22 certain date, in consultation with the Office of Health Care Quality and the

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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 Maryland Hospital Association, to report certain findings to certain committees  
 2 of the General Assembly; requiring the report to include certain  
 3 recommendations; requiring the report to be used to develop certain standards;  
 4 providing for the termination of this Act; defining certain terms; and generally  
 5 relating to palliative care pilot programs in hospitals in the State.

6 BY adding to

7 Article – Health – General

8 Section 19–308.9

9 Annotated Code of Maryland

10 (2009 Replacement Volume and 2012 Supplement)

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

13 **Article – Health – General**

14 **19–308.9.**

15 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE  
 16 MEANINGS INDICATED.

17 (2) “AUTHORIZED DECISION MAKER” MEANS THE HEALTH CARE  
 18 AGENT OR SURROGATE DECISION MAKER WHO IS MAKING HEALTH CARE  
 19 DECISIONS ON BEHALF OF A PATIENT IN ACCORDANCE WITH §§ 5–601 THROUGH  
 20 5–618 OF THIS ARTICLE.

21 (3) “PALLIATIVE CARE” MEANS SPECIALIZED MEDICAL CARE FOR  
 22 INDIVIDUALS WITH SERIOUS ILLNESSES OR CONDITIONS THAT:

23 (I) IS FOCUSED ON PROVIDING PATIENTS WITH RELIEF  
 24 FROM THE SYMPTOMS, PAIN, AND STRESS OF A SERIOUS ILLNESS OR  
 25 CONDITION, WHATEVER THE DIAGNOSIS;

26 (II) HAS THE GOAL OF IMPROVING QUALITY OF LIFE FOR  
 27 THE PATIENT, THE PATIENT’S FAMILY, AND OTHER CAREGIVERS;

28 (III) IS PROVIDED AT ANY AGE AND AT ANY STAGE IN A  
 29 SERIOUS ILLNESS OR CONDITION; AND

30 (IV) MAY BE PROVIDED ALONG WITH CURATIVE  
 31 TREATMENT.

32 ~~(B) ON OR BEFORE JULY 1, 2016, EACH GENERAL HOSPITAL WITH 50~~  
 33 ~~OR MORE BEDS THAT DOES NOT HAVE A PALLIATIVE CARE PROGRAM~~

1 ~~ACCREDITED BY AN ACCREDITATION ORGANIZATION APPROVED BY THE~~  
2 ~~DEPARTMENT SHALL IMPLEMENT A PALLIATIVE CARE PROGRAM THAT:~~

3 ~~(1) MEETS THE REQUIREMENTS OF THIS SECTION; AND~~

4 ~~(2) COMPLIES WITH REGULATIONS ADOPTED BY THE~~  
5 ~~DEPARTMENT UNDER SUBSECTION (E) OF THIS SECTION.~~

6 (B) (1) (I) AT LEAST FIVE PALLIATIVE CARE PILOT PROGRAMS  
7 SHALL BE ESTABLISHED IN THE STATE IN HOSPITALS WITH 50 OR MORE BEDS.

8 (II) THE FIVE PILOT PROGRAMS SHALL BE SELECTED BY  
9 THE MARYLAND HEALTH CARE COMMISSION IN A MANNER THAT ENSURES  
10 GEOGRAPHIC BALANCE IN THE STATE.

11 (III) THE PILOT PROGRAMS ESTABLISHED UNDER  
12 SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL:

13 1. COLLABORATE WITH PALLIATIVE CARE OR  
14 COMMUNITY PROVIDERS TO DELIVER CARE;

15 2. GATHER DATA ON COSTS AND SAVINGS TO  
16 HOSPITALS AND PROVIDERS, ACCESS TO CARE, AND PATIENT CHOICE; AND

17 3. REPORT TO THE MARYLAND HEALTH CARE  
18 COMMISSION ON BEST PRACTICES THAT CAN BE USED IN THE DEVELOPMENT OF  
19 STATEWIDE PALLIATIVE CARE STANDARDS.

20 (2) THE MARYLAND HEALTH CARE COMMISSION SHALL, IN  
21 CONSULTATION WITH THE PILOT PROGRAMS ESTABLISHED UNDER PARAGRAPH  
22 (1) OF THIS SUBSECTION AND STAKEHOLDERS SELECTED BY THE COMMISSION,  
23 IDENTIFY CORE DATA MEASURES FOR THE DATA COLLECTED UNDER  
24 PARAGRAPH (1)(II)2 OF THIS SUBSECTION AND DEVELOP STANDARDS FOR THE  
25 REPORTING REQUIREMENTS OF PARAGRAPH (1)(III)3 OF THIS SUBSECTION.

26 ~~(C) A HOSPITAL'S NONACCREDITED PALLIATIVE CARE PROGRAM~~ THE  
27 PILOT PROGRAMS ESTABLISHED UNDER SUBSECTION (B) OF THIS SECTION  
28 SHALL INCLUDE POLICIES AND PROCEDURES ESTABLISHED BY THE HOSPITAL  
29 THAT:

30 (1) PROVIDE ACCESS TO INFORMATION AND COUNSELING  
31 REGARDING PALLIATIVE CARE SERVICES APPROPRIATE TO A PATIENT WITH A  
32 SERIOUS ILLNESS OR CONDITION;

1           **(2) IDENTIFY THE AUTHORIZED DECISION MAKER OF AN**  
2 **INDIVIDUAL WHO LACKS CAPACITY TO MAKE HEALTH CARE DECISIONS IN**  
3 **ORDER TO PROVIDE THE AUTHORIZED DECISION MAKER ACCESS TO**  
4 **INFORMATION AND COUNSELING REGARDING OPTIONS FOR PALLIATIVE CARE**  
5 **FOR THE PATIENT;**

6           **(3) REQUIRE PROVIDERS TO ENGAGE IN A DISCUSSION OF THE**  
7 **BENEFITS AND RISKS OF TREATMENT OPTIONS IN A MANNER THAT CAN BE**  
8 **UNDERSTOOD EASILY BY THE PATIENT OR AUTHORIZED DECISION MAKER;**

9           **(4) ENCOURAGE THE PATIENT OR AUTHORIZED DECISION MAKER**  
10 **TO INCLUDE THE PATIENT'S RELATIVES AND FRIENDS IN COUNSELING**  
11 **REGARDING PALLIATIVE CARE; AND**

12           **(5) FACILITATE ACCESS TO APPROPRIATE PALLIATIVE CARE**  
13 **CONSULTATIONS AND SERVICES, INCLUDING ASSOCIATED PAIN MANAGEMENT**  
14 **CONSULTATIONS AND SERVICES CONSISTENT WITH A PATIENT'S NEEDS AND**  
15 **PREFERENCES.**

16           **(D) IF A PATIENT OR AUTHORIZED DECISION MAKER DECIDES TO**  
17 **RECEIVE COUNSELING ABOUT PALLIATIVE CARE, THE COUNSELING SHALL**  
18 **INCLUDE INFORMATION REGARDING THE RIGHT OF THE PATIENT TO:**

19           **(1) CONTINUE TO PURSUE DISEASE-TARGETED TREATMENT**  
20 **WITH OR WITHOUT CONCURRENT PALLIATIVE CARE; AND**

21           **(2) RECEIVE COMPREHENSIVE PAIN AND SYMPTOM**  
22 **MANAGEMENT, INCLUDING PAIN MEDICATIONS.**

23           ~~**(E) (1) THE DEPARTMENT SHALL ADOPT REGULATIONS THAT:**~~

24           ~~**(I) SET THE STANDARDS FOR THE OPERATION OF A**~~  
25 ~~**HOSPITAL'S NONACCREDITED PALLIATIVE CARE PROGRAM; AND**~~

26           ~~**(II) IMPLEMENT THE PROVISIONS OF THIS SECTION.**~~

27           ~~**(2) THE STANDARDS ADOPTED UNDER PARAGRAPH (1)(I) OF THIS**~~  
28 ~~**SUBSECTION SHALL BE COMPARABLE TO THE STANDARDS SET BY THE JOINT**~~  
29 ~~**COMMISSION FOR PALLIATIVE CARE PROGRAMS.**~~

30           ~~**(3) THE REGULATIONS ADOPTED UNDER PARAGRAPH (1) OF THIS**~~  
31 ~~**SUBSECTION MAY NOT REQUIRE THAT A PALLIATIVE CARE PROGRAM BE LED BY**~~  
32 ~~**A PHYSICIAN WHO IS BOARD-CERTIFIED IN PALLIATIVE CARE.**~~

1           ~~(F) (1) EACH YEAR THE DEPARTMENT SHALL SURVEY AT LEAST 25%~~  
2 ~~OF THE NONACCREDITED PALLIATIVE CARE PROGRAMS IN THE STATE TO~~  
3 ~~REVIEW COMPLIANCE WITH THIS SECTION AND THE REGULATIONS ADOPTED BY~~  
4 ~~THE DEPARTMENT UNDER THIS SECTION.~~

5           ~~(2) AT LEAST ONCE EVERY 4 YEARS, THE DEPARTMENT SHALL~~  
6 ~~SURVEY EACH NONACCREDITED PALLIATIVE CARE PROGRAM TO REVIEW~~  
7 ~~COMPLIANCE WITH THIS SECTION AND THE REGULATIONS ADOPTED BY THE~~  
8 ~~DEPARTMENT UNDER THIS SECTION.~~

9           ~~SECTION 2. AND BE IT FURTHER ENACTED, That, on or before January 31,~~  
10 ~~2016, the Department of Health and Mental Hygiene shall adopt the regulations~~  
11 ~~required under § 19-308.9(c) of the Health General Article, as enacted by Section 1~~  
12 ~~of this Act.~~

13           ~~SECTION 3. AND BE IT FURTHER ENACTED, That, on or before January 1,~~  
14 ~~2015, the Maryland Hospital Association shall report to the General Assembly, in~~  
15 ~~accordance with § 2-1246 of the State Government Article, on the palliative care~~  
16 ~~programs in operation in hospitals in the State.~~

17           SECTION 2. AND BE IT FURTHER ENACTED, That:

18           (a) On or before December 1, 2015, the Maryland Health Care Commission,  
19 in consultation with the Office of Health Care Quality and the Maryland Hospital  
20 Association, shall report to the Senate Finance Committee and the House Health and  
21 Government Operations Committee, in accordance with § 2-1246 of the State  
22 Government Article, on the findings of the pilot programs established under Section 1  
23 of this Act, including best practices and data outcomes experienced during the pilot  
24 period.

25           (b) The report required under subsection (a) of this section shall:

26           (1) include recommendations, based on the findings of the pilot  
27 programs established under Section 1 of this Act, to be used to develop minimum  
28 standards for palliative care programs with the goal of expanding access to palliative  
29 care services statewide at hospitals with 50 beds or more by July 1, 2016, in a manner  
30 that ensures geographic balance and promotes racial and ethnic diversity; and

31           (2) be used by the Department of Health and Mental Hygiene, in  
32 consultation with experts in hospital palliative care and other interested stakeholders,  
33 to assist in the development of regulations related to standards for palliative care  
34 programs.

35           SECTION 4. 3. AND BE IT FURTHER ENACTED, That this Act shall take  
36 effect October 1, 2013. It shall remain effective for a period of 3 years and 2 months

1 and, at the end of November 30, 2016, with no further action required by the General  
2 Assembly, this Act shall be abrogated and of no further force and effect.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.