

Chapter 379

(House Bill 581)

AN ACT concerning

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

FOR the purpose of ~~requiring certain hospitals to implement a certain palliative care program on or before a certain date;~~ providing for the establishment of a certain number of palliative care pilot programs in certain hospitals in the State; requiring the Maryland Health Care Commission to select the pilot programs in a certain manner; requiring certain palliative care pilot programs to collaborate with certain providers to deliver care, gather certain data, and report certain information to the Maryland Health Care Commission; requiring the Maryland Health Care Commission to consult with certain palliative care pilot programs and certain stakeholders to develop certain core data measures and certain reporting standards; requiring ~~the palliative care program~~ certain palliative care pilot programs to include certain policies and procedures; requiring certain counseling about palliative care to include certain information regarding certain rights of patients; ~~requiring the Department of Health and Mental Hygiene to adopt certain regulations on or before a certain date; prohibiting certain regulations from requiring a palliative care program to be led by a certain physician; requiring the Department to conduct a certain survey of certain palliative care programs at certain intervals; requiring the Maryland Hospital Association to provide a certain report to the General Assembly on or before a certain date;~~ requiring the Maryland Health Care Commission, on or before a certain date, in consultation with the Office of Health Care Quality and the Maryland Hospital Association, to report certain findings to certain committees of the General Assembly; requiring the report to include certain recommendations; requiring the report to be used to develop certain standards; providing for the termination of this Act; defining certain terms; and generally relating to palliative care pilot programs in hospitals in the State.

BY adding to

Article – Health – General

Section 19–308.9

Annotated Code of Maryland

(2009 Replacement Volume and 2012 Supplement)

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

Article – Health – General

19-308.9.

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

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

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

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

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

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

(IV) MAY BE PROVIDED ALONG WITH CURATIVE TREATMENT.

~~(B) ON OR BEFORE JULY 1, 2016, EACH GENERAL HOSPITAL WITH 50 OR MORE BEDS THAT DOES NOT HAVE A PALLIATIVE CARE PROGRAM ACCREDITED BY AN ACCREDITATION ORGANIZATION APPROVED BY THE DEPARTMENT SHALL IMPLEMENT A PALLIATIVE CARE PROGRAM THAT:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 2. AND BE IT FURTHER ENACTED, That:

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

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

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

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

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013. It shall remain effective for a period of 3 years and 2 months and, at the end of November 30, 2016, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 2, 2013.