

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

Senate Bill 834
Rules

(Senator Gladden, *et al.*)

Health Care Malpractice Claims - Definition of "Health Care Provider"

This bill alters the definition of “health care provider” for purposes of a health care malpractice claim. The bill must be construed to apply only prospectively and may not be applied or interpreted to have any effect on, or application to, any cause of action arising before the bill’s October 1, 2013 effective date.

Fiscal Summary

State Effect: The bill does not directly affect governmental operations or finances.

Local Effect: The bill does not directly affect governmental operations or finances.

Small Business Effect: Minimal.

Analysis

Bill Summary/Current Law: Under current law, for purposes of a health care malpractice claim, “health care provider” means a hospital, a related institution, a medical day care center, a hospice care program, an assisted living program, a freestanding ambulatory care facility, a physician, an osteopath, an optometrist, a chiropractor, a registered or licensed practical nurse, a dentist, a podiatrist, a psychologist, a licensed certified social worker-clinical, and a physical therapist, licensed or authorized to provide one or more health care services in Maryland.

A “related institution” is an organized institution, environment, or home that maintains conditions or facilities and equipment to provide domiciliary, personal, or nursing care for two or more unrelated individuals, admitted or retained by the institution for overnight care, who are dependent on the administrator, operator, or proprietor for

nursing care or the subsistence of daily living in a safe, sanitary, and healthful environment. A “freestanding ambulatory care facility” is defined as an ambulatory surgical facility, a freestanding endoscopy facility, a freestanding facility utilizing major medical equipment, a kidney dialysis center, and a freestanding birthing center.

The bill repeals the current definition of “health care provider” and specifies, instead, that a “health care provider” is (1) a health care facility, center, or program licensed under Title 19, Subtitle 3 of the Health-General Article (which includes a hospital or a related institution) or (2) a person licensed, certified, or registered under the Health Occupations Article, which includes a multitude of therapists, technologists, counselors, practitioners, assistants, and professionals within the scope of the health care malpractice subtitle (such as an acupuncturist, a pharmacist, a physical or occupational therapist, an athletic trainer, a physician assistant, a respiratory care practitioner, a radiation oncology technologist, and a professional counselor or therapist).

The bill further specifies that “health care provider” includes an employee, volunteer, or agent delivering or assisting in the delivery of health care services of any or the aforementioned entities or persons.

Current law also specifies that “health care provider” does not include any nursing institution conducted by and for those who rely upon treatment by spiritual means through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination. This provision is unchanged by the bill.

Additional Information

Prior Introductions: None.

Cross File: HB 1310 (Delegate Dumais, *et al.*) - Judiciary.

Information Source(s): Department of Health and Mental Hygiene, Judiciary (Administrative Office of the Courts), Maryland Health Care Alternative Dispute Resolution Office, Department of Legislative Services

Fiscal Note History: First Reader - March 4, 2013
mc/ljm

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