

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 1265 (Delegate Dumais, *et al.*)
Judiciary and Health and Government
Operations

Patient Safety Early Intervention Programs

This bill authorizes a hospital, a related institution, or an insurer that provides professional liability insurance to a health care provider in the State to establish a patient safety early intervention program. In addition, the bill specifies that – in a health care malpractice claim or a civil action against a health care provider – a statement made by a person during a discussion held in accordance with a patient safety early intervention program is inadmissible as evidence of an admission of liability or as evidence of an admission against interest.

Fiscal Summary

State Effect: The bill authorizes, but does not require, a hospital – including a hospital owned or operated by the State – to establish a patient safety early intervention program. The bill’s other provisions are procedural in nature. State finances are not materially affected.

Local Effect: This bill authorizes, but does not require, a hospital – including a locally owned or operated hospital – to establish a patient safety early intervention program. The bill’s other provisions are procedural in nature. Local government finances are not materially affected.

Small Business Effect: Minimal.

Analysis

Bill Summary: A patient safety early intervention program established under the bill must provide for timely review of all reports of adverse events to determine if harm to a patient has occurred. (An “adverse event” means an unexpected occurrence that relates to a patient’s medical treatment and does not include an unexpected occurrence that is related to the natural course of a patient’s illness or underlying disease condition.) In addition, if it is determined, after an investigation of an adverse event, that the care provided to a patient deviated from the accepted standard of care, the program must have a process to engage in the following types of activities within a reasonable time: (1) obtaining input about the adverse event from the patient or the patient’s family; (2) disclosing to the patient and, if appropriate, the patient’s family the results and findings of the investigation; (3) apologizing to the patient for the care provided to the patient; (4) working with the patient or the patient’s legal representative to provide appropriate and reasonable compensation; and (5) allowing the patient and, if appropriate, the patient’s family to participate in efforts to identify and implement system improvements designed to prevent a recurrence of the adverse event.

Current Law: Maryland Rule 5-801 defines “statement” as (1) an oral or written assertion or (2) nonverbal conduct of a person, if it is intended by the person as an assertion.

“Hearsay” is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted. With specified exceptions, hearsay is generally inadmissible as evidence. An admission of liability or an admission against interest by a party is admissible even if the statement is hearsay.

In a health care malpractice claim or a civil action against a health care provider, an expression of regret or apology made by or on behalf of the health care provider is inadmissible as evidence of an admission of liability or as evidence of an admission against interest. However, an admission of liability or fault that is part of or in addition to an expression of regret or apology is admissible as evidence of an admission of liability or as evidence of an admission against interest in such an action.

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 hospital or related institution is required to (1) report an unexpected occurrence related to an individual's medical treatment that results in death or serious disability that is not related to the natural course of the individual's illness or underlying disease condition and (2) submit the report to the Department of Health and Mental Hygiene (DHMH) within five days of the hospital's or related institution's knowledge of the occurrence. Additionally, a hospital or related institution must conduct a root cause analysis of the occurrence and submit it to DHMH within 60 days of knowing about the occurrence.

Additional Information

Prior Introductions: None.

Cross File: SB 835 (Senator Gladden) - Rules.

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

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