

HOUSE BILL 606

D3, J3, C4

6lr2117

By: **Delegate Dumais**

Introduced and read first time: February 3, 2016

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Patient Safety Early Intervention Programs**

3 FOR the purpose of providing that a statement made by a party during a discussion held
4 in accordance with a certain patient safety early intervention program is
5 inadmissible as certain evidence in a certain proceeding or civil action; authorizing
6 a hospital, a related institution, or an insurer that provides professional liability
7 insurance to a certain health care provider to establish a patient safety early
8 intervention program; establishing certain requirements for a patient safety early
9 intervention program; providing that services or support provided to a patient or the
10 patient's family does not affect the right of the patient or the patient's family to
11 certain compensation; defining certain terms; providing for the application of this
12 Act; and generally relating to patient safety early intervention programs and the
13 admissibility of evidence in proceedings or actions relating to health care
14 malpractice.

15 BY adding to

16 Article – Courts and Judicial Proceedings
17 Section 10–920.1
18 Annotated Code of Maryland
19 (2013 Replacement Volume and 2015 Supplement)

20 BY adding to

21 Article – Health – General
22 Section 19–304.1
23 Annotated Code of Maryland
24 (2015 Replacement Volume)

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

27 **Article – Courts and Judicial Proceedings**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **10-920.1.**

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

4 (2) "PATIENT SAFETY EARLY INTERVENTION PROGRAM" MEANS A
5 PROGRAM THAT MEETS THE REQUIREMENTS OF § 19-304.1(C) OF THE HEALTH -
6 GENERAL ARTICLE.

7 (3) "STATEMENT" HAS THE MEANING STATED IN MARYLAND RULE
8 5-801.

9 (B) IN A PROCEEDING SUBJECT TO TITLE 3, SUBTITLE 2A OF THIS ARTICLE
10 OR TO A CIVIL ACTION FOR HEALTH CARE MALPRACTICE AGAINST A HEALTH CARE
11 PROVIDER, A STATEMENT MADE BY A PARTY DURING A DISCUSSION HELD IN
12 ACCORDANCE WITH A PATIENT SAFETY EARLY INTERVENTION PROGRAM IS
13 INADMISSIBLE AS EVIDENCE OF AN ADMISSION OF LIABILITY OR AN ADMISSION
14 AGAINST INTEREST.

15 **Article - Health - General**

16 **19-304.1.**

17 (A) IN THIS SECTION, "ADVERSE EVENT" MEANS AN UNEXPECTED
18 OCCURRENCE THAT RELATES TO A PATIENT'S MEDICAL TREATMENT BUT IS NOT
19 RELATED TO THE NATURAL COURSE OF A PATIENT'S UNDERLYING ILLNESS,
20 DISEASE, OR CONDITION.

21 (B) A HOSPITAL, A RELATED INSTITUTION, OR AN INSURER THAT PROVIDES
22 PROFESSIONAL LIABILITY INSURANCE TO A HEALTH CARE PROVIDER IN THE STATE
23 MAY ESTABLISH A PATIENT SAFETY EARLY INTERVENTION PROGRAM.

24 (C) (1) A PATIENT SAFETY EARLY INTERVENTION PROGRAM
25 ESTABLISHED UNDER THIS SECTION SHALL PROVIDE FOR THE TIMELY
26 INVESTIGATION OF EACH REPORT OF AN ADVERSE EVENT TO DETERMINE IF HARM
27 TO A PATIENT OCCURRED AND IF THE CARE PROVIDED TO THE PATIENT DEVIATED
28 FROM THE ACCEPTED STANDARD OF CARE.

29 (2) IF IT IS DETERMINED AFTER AN INVESTIGATION OF AN ADVERSE
30 EVENT UNDER PARAGRAPH (1) OF THIS SUBSECTION THAT HARM TO A PATIENT
31 OCCURRED AND THAT THE CARE PROVIDED TO THE PATIENT DEVIATED FROM THE
32 ACCEPTED STANDARD OF CARE, A PATIENT SAFETY EARLY INTERVENTION

1 PROGRAM SHALL HAVE A PROCESS TO ENGAGE IN THE FOLLOWING ACTIVITIES
2 WITHIN A REASONABLE TIME AFTER THE OCCURRENCE OF THE ADVERSE EVENT:

3 (I) OBTAINING INPUT ABOUT THE ADVERSE EVENT FROM THE
4 PATIENT OR THE PATIENT'S FAMILY;

5 (II) DISCLOSING TO THE PATIENT AND, IF APPROPRIATE, THE
6 PATIENT'S FAMILY THE RESULTS AND FINDINGS OF THE INVESTIGATION;

7 (III) APOLOGIZING TO THE PATIENT FOR THE CARE PROVIDED
8 TO THE PATIENT;

9 (IV) ADVISING THE PATIENT OF THE PATIENT'S RIGHT TO LEGAL
10 REPRESENTATION IN DISCUSSIONS REGARDING FAIR AND REASONABLE
11 COMPENSATION TO THE PATIENT AND, IF APPROPRIATE, THE PATIENT'S FAMILY;
12 AND

13 (V) ALLOWING THE PATIENT AND, IF APPROPRIATE, THE
14 PATIENT'S FAMILY TO PARTICIPATE IN EFFORTS TO IDENTIFY AND IMPLEMENT
15 SYSTEM IMPROVEMENTS DESIGNED TO PREVENT A RECURRENCE OF THE ADVERSE
16 EVENT.

17 (D) A HOSPITAL, A RELATED INSTITUTION, OR AN INSURER THAT
18 ESTABLISHES A PATIENT SAFETY EARLY INTERVENTION PROGRAM IN ACCORDANCE
19 WITH THIS SECTION SHALL DEVELOP AND PROVIDE TO THE PATIENT AND, IF
20 APPROPRIATE, THE PATIENT'S FAMILY A WRITTEN DESCRIPTION OF THE PROGRAM.

21 (E) ANY SERVICE OR SUPPORT, INCLUDING FINANCIAL SUPPORT,
22 PROVIDED TO A PATIENT OR THE PATIENT'S FAMILY DOES NOT AFFECT THE RIGHT
23 OF THE PATIENT OR THE PATIENT'S FAMILY TO FAIR AND REASONABLE
24 COMPENSATION FOR DAMAGES ASSOCIATED WITH THE ADVERSE EVENT AVAILABLE
25 UNDER STATE LAW.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
27 apply only prospectively and may not be applied or interpreted to have any effect on or
28 application to any cause of action arising before the effective date of this Act.

29 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 2016.