

HOUSE BILL 644

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6lr1509
CF 6lr3337

By: **Delegates Aumann, Adams, Arentz, Buckel, Carozza, Cassilly, Ciliberti, Folden, Glass, Impallaria, Jacobs, Krebs, Malone, Mautz, McComas, McConkey, McDonough, McKay, Miele, Morgan, O'Donnell, Otto, Parrott, Rey, Rose, and Shoemaker**

Introduced and read first time: February 4, 2016

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Public Health – Provision of Life–Preserving Health Care Services**
3 **(Vulnerable Protection Act)**

4 FOR the purpose of prohibiting health care practitioners and health care facilities, under
5 certain circumstances, from denying a life–preserving health care service to a patient
6 on the basis of a certain view or disagreement; requiring, under certain
7 circumstances, a health care practitioner who is in charge of the medical care of a
8 certain patient to notify a certain person of certain rights and to document in the
9 patient’s medical records that the health care practitioner has provided the notice;
10 establishing a certain penalty; authorizing certain persons to file an action for an
11 injunction in a certain court under certain circumstances; authorizing a health care
12 practitioner, under certain circumstances, to claim certain reasons for the denial of
13 a life–preserving health care service as a defense in an action filed under a certain
14 provision of this Act; requiring a court, under certain circumstances, to provide an
15 opportunity to certain persons to argue that certain reasons are discriminatory in
16 their application; providing that a violation of this Act does not constitute negligence
17 per se for purposes of a civil action for damages; defining certain terms; and generally
18 relating to the provision of life–preserving health care services.

19 BY adding to
20 Article – Health – General
21 Section 5–629 to be under the new part “Part III. Miscellaneous”
22 Annotated Code of Maryland
23 (2015 Replacement Volume)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Health – General

5–627. RESERVED.

5–628. RESERVED.

PART III. MISCELLANEOUS.

5–629.

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

(2) “HEALTH CARE FACILITY” HAS THE MEANING STATED IN § 19–114 OF THIS ARTICLE.

(3) “HEALTH CARE PRACTITIONER” MEANS A PERSON WHO IS LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED UNDER THE HEALTH OCCUPATIONS ARTICLE TO PROVIDE HEALTH CARE SERVICES IN THE ORDINARY COURSE OF BUSINESS OR PRACTICE OF A PROFESSION.

(4) “LIFE–PRESERVING HEALTH CARE SERVICE” MEANS A HEALTH CARE SERVICE THE DENIAL OF WHICH, IN REASONABLE MEDICAL JUDGMENT, WILL RESULT IN OR HASTEN THE DEATH OF A PATIENT.

(B) IF A PATIENT OR THE PERSON LEGALLY AUTHORIZED TO MAKE HEALTH CARE DECISIONS FOR THE PATIENT DIRECTS A HEALTH CARE PRACTITIONER OR A HEALTH CARE FACILITY TO PROVIDE TO THE PATIENT A LIFE–PRESERVING HEALTH CARE SERVICE THE HEALTH CARE PRACTITIONER OR HEALTH CARE FACILITY PROVIDES TO OTHER PATIENTS, THE HEALTH CARE PRACTITIONER OR HEALTH CARE FACILITY MAY NOT DENY THE LIFE–PRESERVING HEALTH CARE SERVICE TO THE PATIENT ON THE BASIS OF:

(1) A VIEW HELD BY THE HEALTH CARE PRACTITIONER OR HEALTH CARE FACILITY THAT EXTENDING THE LIFE OF AN ELDERLY, DISABLED, TERMINALLY ILL, ECONOMICALLY DISADVANTAGED, OR MENTALLY ILL INDIVIDUAL IS OF LOWER VALUE THAN EXTENDING THE LIFE OF AN INDIVIDUAL WHO IS YOUNGER, NOT DISABLED, NOT TERMINALLY ILL, NOT ECONOMICALLY DISADVANTAGED, OR NOT MENTALLY ILL; OR

(2) A DISAGREEMENT ABOUT HOW THE PATIENT OR THE PERSON LEGALLY AUTHORIZED TO MAKE HEALTH CARE DECISIONS FOR THE PATIENT VALUES THE TRADE–OFF BETWEEN EXTENDING THE LENGTH OF THE PATIENT’S

1 LIFE AND THE RISK THAT THE LIFE-PRESERVING HEALTH CARE SERVICE MAY
2 RESULT IN A DISABILITY.

3 (C) (1) IF A HEALTH CARE PRACTITIONER OR A HEALTH CARE FACILITY
4 DISAGREES WITH THE PROVISION OF A LIFE-PRESERVING HEALTH CARE SERVICE
5 THAT A PATIENT OR THE PERSON LEGALLY AUTHORIZED TO MAKE HEALTH CARE
6 DECISIONS FOR THE PATIENT DIRECTED THE HEALTH CARE PRACTITIONER OR
7 HEALTH CARE FACILITY TO PROVIDE, THE HEALTH CARE PRACTITIONER WHO IS IN
8 CHARGE OF THE MEDICAL CARE OF THE PATIENT SHALL:

9 (I) NOTIFY THE PATIENT OR THE PERSON LEGALLY
10 AUTHORIZED TO MAKE HEALTH CARE DECISIONS FOR THE PATIENT THAT THE
11 PATIENT, OR THE PERSON LEGALLY AUTHORIZED TO MAKE HEALTH CARE
12 DECISIONS FOR THE PATIENT, HAS A RIGHT TO:

13 1. APPEAL THE DECISION TO THE ETHICS COMMITTEE
14 OR SIMILAR ENTITY TO WHICH THE HEALTH CARE PRACTITIONER IS SUBJECT OR
15 THAT WAS ESTABLISHED BY THE HEALTH CARE FACILITY; AND

16 2. FILE FOR INJUNCTIVE RELIEF IN A COURT OF
17 APPROPRIATE JURISDICTION; AND

18 (II) DOCUMENT IN THE PATIENT'S MEDICAL RECORDS THAT
19 THE HEALTH CARE PRACTITIONER PROVIDED THE NOTICE REQUIRED UNDER ITEM
20 (I) OF THIS PARAGRAPH.

21 (2) A HEALTH CARE PRACTITIONER WHO VIOLATES THIS SUBSECTION
22 IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE OF
23 \$1,000.

24 (D) (1) IF A PATIENT OR THE PERSON LEGALLY AUTHORIZED TO MAKE
25 HEALTH CARE DECISIONS FOR A PATIENT REASONABLY BELIEVES THAT A HEALTH
26 CARE PRACTITIONER IS ABOUT TO VIOLATE, IS IN THE COURSE OF VIOLATING, OR
27 HAS VIOLATED SUBSECTION (B) OF THIS SECTION, THE PATIENT OR THE PERSON
28 LEGALLY AUTHORIZED TO MAKE HEALTH CARE DECISIONS FOR THE PATIENT MAY
29 FILE AN ACTION FOR AN INJUNCTION IN A COURT OF APPROPRIATE JURISDICTION.

30 (2) (I) IF THE PATIENT OR THE PERSON LEGALLY AUTHORIZED TO
31 MAKE HEALTH CARE DECISIONS FOR THE PATIENT PLEADS A PRIMA FACIE CASE IN
32 AN ACTION FILED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE HEALTH CARE
33 PRACTITIONER MAY CLAIM LEGITIMATE, NONDISCRIMINATORY REASONS FOR THE
34 DENIAL OF THE LIFE-PRESERVING HEALTH CARE SERVICE AS A DEFENSE.

1 **(II) IF THE HEALTH CARE PRACTITIONER CLAIMS LEGITIMATE,**
2 **NONDISCRIMINATORY REASONS UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH,**
3 **THE COURT SHALL PROVIDE AN OPPORTUNITY TO THE PATIENT OR THE PERSON**
4 **LEGALLY AUTHORIZED TO MAKE HEALTH CARE DECISIONS FOR THE PATIENT TO**
5 **ARGUE THAT THE REASONS IN THEIR APPLICATION ARE DISCRIMINATORY.**

6 **(E) A VIOLATION OF THIS SECTION DOES NOT CONSTITUTE NEGLIGENCE**
7 **PER SE FOR PURPOSES OF A CIVIL ACTION FOR DAMAGES.**

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2016.