

# HOUSE BILL 940

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By: **Delegate Hill**

Introduced and read first time: February 8, 2019

Assigned to: Health and Government Operations

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 21, 2019

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Unregulated Space in Hospital Operating Suites Pilot Project – Study**

3 FOR the purpose of ~~establishing an unregulated space in hospital operating suites pilot~~  
4 ~~project; requiring the pilot project to be operated by the Health Services Cost Review~~  
5 ~~Commission; authorizing the Commission to allow up to five hospitals to participate~~  
6 ~~in the pilot project; providing that certain hospitals may be subject to a certain rate~~  
7 ~~determination; authorizing certain hospitals to make available certain operating~~  
8 ~~room space to certain patients and payers under certain conditions; requiring the~~  
9 ~~Commission to develop certain criteria and standards for the pilot project~~ requiring  
10 the Health Services Cost Review Commission to conduct a certain study, in  
11 conjunction with the Maryland Health Care Commission and certain stakeholders,  
12 on the feasibility and desirability of allowing for an unregulated space in a hospital  
13 operating room as a pilot project; requiring the Health Services Cost Review  
14 Commission to report to certain committees of the General Assembly on or before a  
15 certain date each year; ~~providing for the termination of this Act;~~ and generally  
16 relating to ~~the~~ a study of an unregulated space in hospital operating suites pilot  
17 project.

18 ~~By adding to~~  
19 ~~Article Health General~~  
20 ~~Section 19-209~~  
21 ~~Annotated Code of Maryland~~  
22 ~~(2015 Replacement Volume and 2018 Supplement)~~

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

3 ~~Article Health General~~

4 ~~19-209.~~

5 ~~(A) THERE IS AN UNREGULATED SPACE IN HOSPITAL OPERATING SUITES~~  
6 ~~PILOT PROJECT.~~

7 ~~(B) THE PILOT PROJECT SHALL BE OPERATED BY THE COMMISSION.~~

8 ~~(C) (1) THE COMMISSION IS AUTHORIZED TO ALLOW UP TO FIVE~~  
9 ~~HOSPITALS TO PARTICIPATE IN THE PILOT PROJECT.~~

10 ~~(2) A HOSPITAL PARTICIPATING IN THE PILOT PROJECT MAY BE~~  
11 ~~SUBJECT TO AN ALTERNATE METHOD OF RATE DETERMINATION, INCLUDING AN~~  
12 ~~EXEMPTION FROM RATES THAT ALLOWS UNREGULATED OPERATING ROOM SPACE~~  
13 ~~TO BE PHYSICALLY LOCATED WITHIN A REGULATED FACILITY.~~

14 ~~(3) A HOSPITAL PARTICIPATING IN THE PILOT PROJECT IS~~  
15 ~~AUTHORIZED TO MAKE AVAILABLE UNREGULATED OPERATING ROOM SPACE TO ALL~~  
16 ~~PATIENTS AND ALL PAYERS, WITH NO DUPLICATION OF SERVICES IN REGULATED~~  
17 ~~OPERATING ROOM SPACE.~~

18 ~~(D) THE COMMISSION SHALL DEVELOP CRITERIA AND STANDARDS FOR~~  
19 ~~HOSPITALS PARTICIPATING IN THE PILOT PROJECT INCLUDING THAT:~~

20 ~~(1) A PARTICIPATING HOSPITAL SHALL OFFER CHARITY CARE~~  
21 ~~CONSISTENT WITH REGULATED HOSPITAL SERVICES;~~

22 ~~(2) THE BILLED CHARGE FOR A SERVICE MAY NOT BE HIGHER THAN~~  
23 ~~THE PARTICIPATING HOSPITAL'S BILLED CHARGE FOR A SIMILAR SERVICE;~~

24 ~~(3) THE COST TO THE MEDICAL ASSISTANCE PROGRAM AND~~  
25 ~~MEDICARE SHALL BE LOWER THAN A SIMILAR REGULATED HOSPITAL SERVICE; AND~~

26 ~~(4) A PARTICIPATING HOSPITAL SHALL INCREASE CONSUMER~~  
27 ~~AWARENESS AND EDUCATION ABOUT REGULATED AND NONREGULATED SERVICES,~~  
28 ~~INCLUDING THE POTENTIAL FOR ADDITIONAL BILLED CHARGES FROM PHYSICIANS.~~

29 ~~(E) ON OR BEFORE DECEMBER 1 EACH YEAR, THE COMMISSION SHALL~~  
30 ~~REPORT, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE,~~  
31 ~~TO THE SENATE FINANCE COMMITTEE AND THE HOUSE HEALTH AND~~  
32 ~~GOVERNMENT OPERATIONS COMMITTEE ON:~~

1 ~~(1) THE TYPES OF PROCEDURES THAT HAVE OCCURRED IN A~~  
2 ~~PARTICIPATING HOSPITAL'S UNREGULATED OPERATING ROOM SPACE;~~

3 ~~(2) THE COSTS ASSOCIATED WITH A HOSPITAL'S PARTICIPATION IN~~  
4 ~~THE PILOT PROJECT; AND~~

5 ~~(3) THE EFFECTS OF THE PILOT PROJECT ON THE MARYLAND~~  
6 ~~ALL-PAYER MODEL.~~

7 (a) The Health Services Cost Review Commission, in conjunction with the  
8 Maryland Health Care Commission, hospitals, providers, payers, and other relevant  
9 stakeholders, shall study the feasibility and desirability of allowing for an unregulated  
10 space in a hospital operating room suite as a pilot project.

11 (b) The study required under subsection (a) of this section shall include an  
12 examination of:

13 (1) the availability of operating room space for elective, self-paying  
14 patients that ensures safe and appropriate care for patients at higher risk or who need a  
15 higher level of immediate post-surgical care;

16 (2) the Health Services Cost Review Commission's current authority  
17 within the current regulated structure to accomplish differential pricing for services  
18 covered by payers and the use of unregulated services;

19 (3) factors related to the mixing of regulated and unregulated space at a  
20 hospital, which may include:

21 (i) implications for all public, commercial, and independent payers  
22 of health care services;

23 (ii) transparency for and parity of access by consumers to health care  
24 services; and

25 (iii) implications for hospital capital funding and capacity planning  
26 needs;

27 (4) appropriate adjustments to a hospital's global budget revenue target for  
28 deregulating a hospital operating room suite and opportunities to offer unregulated  
29 operating room space for services that are not covered by insurers;

30 (5) the number of hospital participants in the pilot project that would be  
31 financially responsible in the context of the all-payer model contract;

1           (6) the implications of the pilot project on quality of care and how the  
2 quality of the services provided under the pilot project will be ensured;

3           (7) possible criteria and standards for hospital participation in the pilot  
4 project; and

5           (8) any other implications of the pilot project that should be considered  
6 before moving forward, including any cost-shifting that could result from the pilot project,  
7 the all-payer aspect of the all-payer model, and any impact on the Total Cost of Care  
8 Waiver.

9           (c) On or before June 30, 2020, the Health Services Cost Review Commission  
10 shall report the findings of the study conducted under this section, in accordance with §  
11 2-1246 of the State Government Article, to the Senate Finance Committee and the House  
12 Health and Government Operations Committee.

13           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
14 1, 2019. ~~It shall remain effective for a period of 3 years and, at the end of June 30, 2022,~~  
15 ~~this Act, with no further action required by the General Assembly, shall be abrogated and~~  
16 ~~of no further force and effect.~~

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.