

# SENATE BILL 1041

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By: **Senator Nathan–Pulliam**

Introduced and read first time: March 4, 2019

Assigned to: Rules

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## A BILL ENTITLED

1 AN ACT concerning

2 **Public Health – Care of Medically Fragile Individuals**  
3 **(Channing’s Law)**

4 FOR the purpose of requiring the Office of Health Care Quality, on or before a certain date,  
5 to establish a training program and a skills review and check for nurses who care for  
6 medically fragile individuals in the homes of the medically fragile individuals;  
7 requiring that a certain training program include certain components; establishing  
8 certain qualifications for a certain nurse who teaches a certain training program;  
9 requiring the Maryland Medical Assistance Program to provide funding, subject to a  
10 certain limitation, for the development, implementation, and staffing of a certain  
11 training program and a certain skills review and check; authorizing the Office to  
12 contract or coordinate with a third party for a certain purpose; requiring, beginning  
13 on a certain date, a certain nurse to complete a certain training program before  
14 beginning to provide certain care except under certain circumstances; requiring a  
15 nurse who provides certain care to complete a certain skills review and check at a  
16 certain frequency except under certain circumstances; requiring a certain nurse to  
17 complete a certain skills review and check before providing certain care except under  
18 certain circumstances; authorizing a residential service agency to authorize a certain  
19 nurse to provide care for a medically fragile individual in the individual’s home only  
20 if the nurse has complied with certain requirements; requiring a hospital to provide  
21 certain instruction to the parent or legal guardian of a medically fragile individual  
22 before the hospital may discharge a certain individual; requiring a hospital before  
23 discharging a medically fragile individual to require the medically fragile  
24 individual’s parent or legal guardian to demonstrate that the parent or legal  
25 guardian can successfully perform certain tasks and inform the parent or legal  
26 guardian of a certain matter; requiring the Office of Health Care Quality to conduct  
27 certain inspections and enforce certain provisions of this Act; defining certain terms;  
28 requiring certain nurses to complete a certain continuing education course on or  
29 before a certain date; requiring the Maryland Medical Assistance Program to ensure  
30 that a certain reimbursement rate is at least a certain amount on or before a certain  
31 date; and generally relating to the care of medically fragile individuals.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, without amendments,  
2 Article – Health – General  
3 Section 15–103(a)(1), 19–301(a) and (f), and 19–4A–01(a) and (e)  
4 Annotated Code of Maryland  
5 (2015 Replacement Volume and 2018 Supplement)

6 BY repealing and reenacting, with amendments,  
7 Article – Health – General  
8 Section 15–103(a)(2)(xii) and (xiii)  
9 Annotated Code of Maryland  
10 (2015 Replacement Volume and 2018 Supplement)

11 BY adding to  
12 Article – Health – General  
13 Section 15–103(a)(2)(xiv); and 20–2001 through 20–2005 to be under the new subtitle  
14 “Subtitle 20. Nurse Training for the Care of Medically Fragile Individuals”  
15 Annotated Code of Maryland  
16 (2015 Replacement Volume and 2018 Supplement)

17 Preamble

18 WHEREAS, The Medicaid reimbursement rate does not support the use of registered  
19 nurses in pediatric home care; and

20 WHEREAS, Licensed practical nurses are the predominant source for pediatric  
21 home care; and

22 WHEREAS, There is a shortage of licensed practical nurses who meet the required  
23 criteria for Medicaid participation with medically fragile individuals; and

24 WHEREAS, Specialized training is required to address the complex medical needs  
25 of the home care pediatric population; and

26 WHEREAS, Lack of participation by some parents in addressing the health care  
27 needs of their children breaks the chain in the continuity of care required to maintain  
28 optimal health conditions in the home-bound pediatric patient population and may result  
29 in rehospitalizations; and

30 WHEREAS, Frequent hospitalizations produce a lack of confidence in the reliability  
31 of work, leading the nurses to seek supplemental work; and

32 WHEREAS, Of all the neighboring states, Maryland pays the least per hour for  
33 nurses who provide in-home care; now, therefore,

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

1 **Article – Health – General**

2 15–103.

3 (a) (1) The Secretary shall administer the Maryland Medical Assistance  
4 Program.

5 (2) The Program:

6 (xii) Shall provide services in accordance with funding restrictions  
7 included in the annual State budget bill; [and]

8 (xiii) Beginning on January 1, 2019, may provide, subject to the  
9 limitations of the State budget, and as permitted by federal law, dental services for adults  
10 whose annual household income is at or below 133 percent of the poverty level; AND

11 **(XIV) SHALL PROVIDE, SUBJECT TO THE LIMITATIONS OF THE**  
12 **STATE BUDGET, FUNDING FOR THE DEVELOPMENT, IMPLEMENTATION, AND**  
13 **STAFFING OF THE NURSE TRAINING PROGRAM AND SKILLS REVIEW AND CHECK FOR**  
14 **THE CARE OF MEDICALLY FRAGILE INDIVIDUALS REQUIRED UNDER § 20–2003 OF**  
15 **THIS ARTICLE.**

16 19–301.

17 (a) In this subtitle the following words have the meanings indicated.

18 (f) “Hospital” means an institution that:

19 (1) Has a group of at least 5 physicians who are organized as a medical  
20 staff for the institution;

21 (2) Maintains facilities to provide, under the supervision of the medical  
22 staff, diagnostic and treatment services for 2 or more unrelated individuals; and

23 (3) Admits or retains the individuals for overnight care.

24 19–4A–01.

25 (a) In this subtitle the following words have the meanings indicated.

26 (e) (1) “Residential service agency” means any person that is engaged in a  
27 nongovernmental business of employing or contracting with individuals to provide home  
28 health care for compensation to an unrelated sick or disabled individual in the residence of  
29 that individual.

1 (2) “Residential service agency” includes any agency that employs or  
2 contracts with individuals directly for hire as home health care providers.

3 (3) “Residential service agency” does not include:

4 (i) A home health agency that is licensed under the provisions of  
5 Subtitle 4 of this title;

6 (ii) A person required to be licensed as a home health agency under  
7 the provisions of Subtitle 4 of this title;

8 (iii) A home-based hospice care program that is licensed under the  
9 provisions of Subtitle 9 of this title;

10 (iv) A hospital that is licensed under the provisions of Subtitle 3 of  
11 this title;

12 (v) A related institution that is licensed under the provisions of  
13 Subtitle 3 of this title;

14 (vi) Personal care providers under the Medical Assistance Personal  
15 Care Program;

16 (vii) Any person practicing a health occupation that the person is  
17 authorized to practice under the Health Occupations Article;

18 (viii) A nursing referral service agency that is licensed under Subtitle  
19 4B of this title;

20 (ix) A group of persons licensed under the same title of the Health  
21 Occupations Article practicing as a business; or

22 (x) Residential rehabilitation services providers approved under  
23 regulations adopted by the State Mental Health Authority.

24 **SUBTITLE 20. NURSE TRAINING FOR THE CARE OF MEDICALLY FRAGILE**  
25 **INDIVIDUALS.**

26 **20–2001.**

27 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**  
28 **INDICATED.**

29 **(B) “HOSPITAL” HAS THE MEANING STATED IN § 19–301 OF THIS ARTICLE.**

30 **(C) “MEDICALLY FRAGILE INDIVIDUAL” MEANS AN INDIVIDUAL UNDER THE**

1 AGE OF 21 YEARS WHO HAS A COMPLEX MEDICAL CONDITION THAT REQUIRES  
2 PROFESSIONAL NURSING MONITORING OR PARENTAL SUPERVISION ON A 24-HOUR  
3 BASIS TO PREVENT LIFE-THREATENING COMPLICATIONS OR DETERIORATION OF  
4 THE INDIVIDUAL'S HEALTH.

5 (D) "RESIDENTIAL SERVICE AGENCY" HAS THE MEANING STATED IN §  
6 19-4A-01 OF THIS ARTICLE.

7 20-2002.

8 (A) ON OR BEFORE DECEMBER 31, 2020, THE OFFICE OF HEALTH CARE  
9 QUALITY SHALL ESTABLISH A TRAINING PROGRAM AND A SKILLS REVIEW AND  
10 CHECK FOR NURSES WHO CARE FOR MEDICALLY FRAGILE INDIVIDUALS IN THE  
11 HOMES OF THE MEDICALLY FRAGILE INDIVIDUALS.

12 (B) (1) THE TRAINING PROGRAM ESTABLISHED UNDER SUBSECTION (A)  
13 OF THIS SECTION SHALL:

14 (I) REQUIRE A NURSE TO DEMONSTRATE THE SKILLS NEEDED  
15 TO CARE FOR A MEDICALLY FRAGILE INDIVIDUAL, INCLUDING:

- 16 1. CHANGING A GASTRONOMY TUBE;
- 17 2. CHANGING A TRACHEOSTOMY TUBE;
- 18 3. PERFORMING CARDIOPULMONARY RESUSCITATION  
19 (CPR);
- 20 4. USING VENTILATOR EQUIPMENT; AND
- 21 5. DEMONSTRATING ANY OTHER SKILL THAT THE  
22 OFFICE DETERMINES IS NECESSARY FOR THE CARE OF A MEDICALLY FRAGILE  
23 INDIVIDUAL;

24 (II) INCLUDE A CLINICAL LEARNING COMPONENT; AND

25 (III) PROVIDE A MENTOR FOR EACH NURSE IN THE TRAINING  
26 PROGRAM FOR A PERIOD OF TIME TO BE DETERMINED BY THE OFFICE.

27 (2) THE OFFICE SHALL PROVIDE A CERTIFICATE OF COMPLETION TO  
28 EACH NURSE WHO SUCCESSFULLY COMPLETES THE TRAINING PROGRAM UNDER  
29 THIS SUBSECTION.

1           **(C) (1) THE TRAINING PROGRAM ESTABLISHED UNDER SUBSECTION (A)**  
2 **OF THIS SECTION SHALL BE TAUGHT BY A REGISTERED NURSE WITH:**

3                   **(I) AT A MINIMUM, A BACHELOR'S DEGREE IN NURSING;**

4                   **(II) AT LEAST 5 YEARS OF PEDIATRIC HOME-CARE**  
5 **EXPERIENCE, INCLUDING WITH MEDICALLY FRAGILE INDIVIDUALS; AND**

6                   **(III) TRAINING ON EDUCATION AND CURRICULUM**  
7 **DEVELOPMENT.**

8           **(2) IN SELECTING TEACHERS FOR THE TRAINING PROGRAM, THE**  
9 **OFFICE SHALL GIVE A PREFERENCE TO NURSES WITH A MASTER'S DEGREE IN**  
10 **NURSING.**

11           **(D) THE MARYLAND MEDICAL ASSISTANCE PROGRAM SHALL PROVIDE**  
12 **FUNDING FOR THE TRAINING PROGRAM AND THE SKILLS REVIEW AND CHECK**  
13 **ESTABLISHED UNDER SUBSECTION (A) OF THIS SECTION, INCLUDING FUNDING FOR**  
14 **THE COMPENSATION OF THE REGISTERED NURSE TEACHERS CONDUCTING THE**  
15 **TRAINING PROGRAM.**

16           **(E) THE OFFICE MAY CONTRACT OR COORDINATE WITH A THIRD PARTY TO**  
17 **MEET THE REQUIREMENTS OF THIS SECTION.**

18 **20-2003.**

19           **(A) BEGINNING JANUARY 1, 2021, A NURSE WHO BECOMES EMPLOYED TO**  
20 **PROVIDE CARE TO A MEDICALLY FRAGILE INDIVIDUAL IN THE MEDICALLY FRAGILE**  
21 **INDIVIDUAL'S HOME SHALL COMPLETE THE TRAINING PROGRAM ESTABLISHED**  
22 **UNDER § 20-2002 OF THIS SUBTITLE BEFORE BEGINNING TO PROVIDE THE CARE**  
23 **UNLESS THE NURSE HAS PREVIOUSLY PROVIDED CARE TO A MEDICALLY FRAGILE**  
24 **INDIVIDUAL IN THE MEDICALLY FRAGILE INDIVIDUAL'S HOME.**

25           **(B) A NURSE WHO PROVIDES CARE TO A MEDICALLY FRAGILE INDIVIDUAL**  
26 **IN THE MEDICALLY FRAGILE INDIVIDUAL'S HOME SHALL COMPLETE THE SKILLS**  
27 **REVIEW AND CHECK ESTABLISHED UNDER § 20-2002 OF THIS SUBTITLE AT LEAST**  
28 **ONCE EVERY 12-MONTH PERIOD FOR THE DURATION OF THE NURSE'S EMPLOYMENT**  
29 **UNLESS THE NURSE COMPLETED THE TRAINING PROGRAM DURING THE 12-MONTH**  
30 **PERIOD.**

31           **(C) IF A NURSE WHO IS EMPLOYED TO PROVIDE CARE TO A MEDICALLY**  
32 **FRAGILE INDIVIDUAL IN THE MEDICALLY FRAGILE INDIVIDUAL'S HOME LEAVES THE**  
33 **EMPLOYMENT, THE NURSE SHALL COMPLETE THE SKILLS REVIEW AND CHECK**

1 ESTABLISHED UNDER § 20-2002 OF THIS SUBTITLE BEFORE PROVIDING CARE TO A  
2 MEDICALLY FRAGILE INDIVIDUAL IN THE MEDICALLY FRAGILE INDIVIDUAL'S HOME  
3 UNLESS LESS THAN 1 YEAR HAS ELAPSED SINCE THE DATE THE NURSE LAST  
4 COMPLETED THE TRAINING PROGRAM OR SKILLS REVIEW AND CHECK.

5 (D) A RESIDENTIAL SERVICE AGENCY MAY AUTHORIZE A NURSE EMPLOYED  
6 BY OR CONTRACTED WITH THE RESIDENTIAL SERVICE AGENCY TO PROVIDE CARE  
7 FOR A MEDICALLY FRAGILE INDIVIDUAL IN THE MEDICALLY FRAGILE INDIVIDUAL'S  
8 HOME ONLY IF THE NURSE HAS COMPLIED WITH THE REQUIREMENTS OF THIS  
9 SECTION.

10 20-2004.

11 (A) BEFORE A HOSPITAL MAY DISCHARGE A MEDICALLY FRAGILE  
12 INDIVIDUAL INTO THE CARE OF A PARENT OR LEGAL GUARDIAN, THE HOSPITAL  
13 SHALL PROVIDE INSTRUCTION TO THE MEDICALLY FRAGILE INDIVIDUAL'S PARENT  
14 OR LEGAL GUARDIAN ON HOW TO PERFORM THE TASKS NECESSARY TO CARE FOR  
15 THE MEDICALLY FRAGILE INDIVIDUAL AT HOME, INCLUDING, AS APPLICABLE, HOW  
16 TO:

17 (1) CHANGE A GASTRONOMY TUBE;

18 (2) CHANGE A TRACHEOSTOMY TUBE;

19 (3) PERFORM CARDIOPULMONARY RESUSCITATION (CPR);

20 (4) USE VENTILATOR EQUIPMENT; AND

21 (5) PERFORM ANY OTHER TASK THAT THE HOSPITAL STAFF  
22 DETERMINES IS NECESSARY FOR THE CARE OF THE MEDICALLY FRAGILE  
23 INDIVIDUAL.

24 (B) BEFORE DISCHARGING A MEDICALLY FRAGILE INDIVIDUAL, A HOSPITAL  
25 SHALL:

26 (1) REQUIRE THAT THE MEDICALLY FRAGILE INDIVIDUAL'S PARENT  
27 OR LEGAL GUARDIAN DEMONSTRATE THAT THE PARENT OR LEGAL GUARDIAN CAN  
28 SUCCESSFULLY PERFORM THE TASKS TAUGHT UNDER SUBSECTION (A) OF THIS  
29 SECTION; AND

30 (2) INFORM THE MEDICALLY FRAGILE INDIVIDUAL'S PARENT OR  
31 LEGAL GUARDIAN THAT THE PARENT OR LEGAL GUARDIAN MUST PARTICIPATE IN  
32 THE CARE FOR THE INDIVIDUAL AT HOME IN ORDER FOR THE INDIVIDUAL TO HAVE

1 CONTINUITY OF CARE.

2 20–2005.

3 THE OFFICE OF HEALTH CARE QUALITY SHALL:

4 (1) INSPECT THE OPERATIONS OF EACH HOSPITAL AND RESIDENTIAL  
5 SERVICE AGENCY TO ENSURE THAT THE HOSPITAL OR RESIDENTIAL SERVICE  
6 AGENCY IS IN COMPLIANCE WITH THE REQUIREMENTS OF THIS SUBTITLE; AND

7 (2) ENFORCE THE PROVISIONS OF THIS SUBTITLE.

8 SECTION 2. AND BE IT FURTHER ENACTED, That a nurse employed on the  
9 effective date of this Act shall complete the skills review and check established under §  
10 20–2002 of the Health – General Article, as enacted by Section 1 of this Act, on or before  
11 July 1, 2021.

12 SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December 31,  
13 2020, the Maryland Medical Assistance Program shall ensure that the reimbursement rate  
14 that the Program pays for nurses who provide care to a medically fragile individual in the  
15 individual’s home is at least \$45 per hour.

16 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect  
17 October 1, 2019.