

SENATE BILL 1175

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By: **Senator Lam**

Introduced and read first time: February 15, 2024

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Hospitals – Emergency Medical Conditions – Procedures**
3 **(Maryland Lifesaving Treatment Access and Abortion Protection Act)**

4 FOR the purpose of requiring a hospital to conduct screening on an individual presenting
5 at an emergency department of the hospital to determine whether the individual has
6 an emergency medical condition; establishing requirements and prohibitions related
7 to the treatment and transfer of an individual who has an emergency medical
8 condition; prohibiting a hospital from taking adverse action against a provider for
9 not transferring a patient who is not stabilized or against a hospital employee if the
10 employee reports a violation of this Act; and generally relating to emergency medical
11 conditions and hospitals.

12 BY adding to
13 Article – Health – General
14 Section 19–342.1
15 Annotated Code of Maryland
16 (2023 Replacement Volume)

17 BY repealing and reenacting, with amendments,
18 Article – Health – General
19 Section 20–214(b)
20 Annotated Code of Maryland
21 (2023 Replacement Volume)

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

24 **Article – Health – General**

25 **19–342.1.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 (2) "EMERGENCY MEDICAL CONDITION" MEANS:

4 (I) A MEDICAL CONDITION THAT PRESENTS THROUGH ACUTE
5 SYMPTOMS OF SUFFICIENT SEVERITY, INCLUDING SEVERE PAIN, AND FOR WHICH
6 THE ABSENCE OF IMMEDIATE MEDICAL ATTENTION COULD BE REASONABLY
7 EXPECTED TO RESULT IN:

8 1. PLACING THE HEALTH OF THE INDIVIDUAL OR, WITH
9 RESPECT TO A PREGNANT WOMAN, THE HEALTH OF THE WOMAN OR HER UNBORN
10 CHILD, IN SERIOUS JEOPARDY;

11 2. SERIOUS IMPAIRMENT TO BODILY FUNCTIONS; OR

12 3. SERIOUS DYSFUNCTION OF ANY BODILY ORGAN OR
13 BODY PART; OR

14 (II) WITH RESPECT TO A PREGNANT WOMAN WHO IS HAVING
15 CONTRACTIONS:

16 1. THERE BEING INADEQUATE TIME TO EFFECT A SAFE
17 TRANSFER TO ANOTHER HOSPITAL BEFORE DELIVERY; OR

18 2. TRANSFER POSING A THREAT TO THE HEALTH OR
19 SAFETY OF THE WOMAN OR UNBORN CHILD.

20 (3) "STABILIZE" MEANS:

21 (I) FOR AN EMERGENCY MEDICAL CONDITION AS DEFINED IN
22 PARAGRAPH (2)(I) OF THIS SUBSECTION, TO PROVIDE THE MEDICAL TREATMENT
23 NECESSARY TO ENSURE, WITHIN REASONABLE MEDICAL PROBABILITY, THAT NO
24 MATERIAL DETERIORATION OF THE CONDITION IS LIKELY TO RESULT FROM OR
25 OCCUR DURING THE TRANSFER OF THE INDIVIDUAL FROM THE FACILITY; OR

26 (II) FOR AN EMERGENCY MEDICAL CONDITION AS DEFINED IN
27 PARAGRAPH (2)(II) OF THIS SUBSECTION, THE WOMAN HAS DELIVERED THE
28 NEWBORN, INCLUDING DELIVERY OF THE PLACENTA.

29 (B) THIS SECTION APPLIES ONLY TO A HOSPITAL WITH AN EMERGENCY
30 DEPARTMENT.

1 **(C) ON THE REQUEST OF AN INDIVIDUAL PRESENTING AT A HOSPITAL**
2 **EMERGENCY DEPARTMENT, OR THE INDIVIDUAL'S REPRESENTATIVE, A HOSPITAL**
3 **SHALL PROVIDE AN APPROPRIATE MEDICAL SCREENING TO DETERMINE WHETHER**
4 **THE INDIVIDUAL HAS AN EMERGENCY MEDICAL CONDITION.**

5 **(D) IF A HOSPITAL DETERMINES THAT AN INDIVIDUAL HAS AN EMERGENCY**
6 **MEDICAL CONDITION, THE HOSPITAL SHALL:**

7 **(1) USING THE STAFF AND FACILITIES AVAILABLE AT THE HOSPITAL,**
8 **PROVIDE FURTHER EXAMINATION AND THE TREATMENT REQUIRED TO STABILIZE**
9 **THE EMERGENCY MEDICAL CONDITION; OR**

10 **(2) TRANSFER THE INDIVIDUAL TO ANOTHER MEDICAL FACILITY.**

11 **(E) (1) A HOSPITAL IS CONSIDERED TO HAVE MET THE REQUIREMENTS**
12 **OF THIS SECTION IF, AFTER OFFERING FURTHER EXAMINATION AND TREATMENT OR**
13 **TRANSFER TO THE INDIVIDUAL OR THE INDIVIDUAL'S REPRESENTATIVE, AND**
14 **INFORMING THE INDIVIDUAL OR INDIVIDUAL'S REPRESENTATIVE OF THE RISKS AND**
15 **BENEFITS OF FURTHER EXAMINATION AND TREATMENT OR TRANSFER:**

16 **(I) AN INDIVIDUAL OR THE INDIVIDUAL'S REPRESENTATIVE**
17 **REFUSES TO CONSENT TO FURTHER EXAMINATION AND TREATMENT; OR**

18 **(II) AN INDIVIDUAL OR THE INDIVIDUAL'S REPRESENTATIVE**
19 **REFUSES TO CONSENT TO A TRANSFER TO ANOTHER MEDICAL FACILITY.**

20 **(2) A HOSPITAL SHALL TAKE REASONABLE STEPS TO SECURE**
21 **WRITTEN INFORMED CONSENT TO THE REFUSAL OF AN EXAMINATION OR**
22 **TREATMENT OR TRANSFER UNDER THIS SUBSECTION FROM THE INDIVIDUAL OR**
23 **THE INDIVIDUAL'S REPRESENTATIVE.**

24 **(F) IF AN INDIVIDUAL HAS AN EMERGENCY MEDICAL CONDITION THAT HAS**
25 **NOT BEEN STABILIZED, THE HOSPITAL MAY NOT TRANSFER THE INDIVIDUAL**
26 **UNLESS:**

27 **(1) THE TRANSFERRING HOSPITAL PROVIDES THE MEDICAL**
28 **TREATMENT AVAILABLE AT THE HOSPITAL THAT MINIMIZES THE RISKS TO THE**
29 **INDIVIDUAL'S HEALTH AND, IN THE CASE OF A WOMAN IN LABOR, THE HEALTH OF**
30 **THE UNBORN CHILD;**

31 **(2) THE RECEIVING FACILITY HAS AVAILABLE SPACE AND QUALIFIED**
32 **PERSONNEL TO TREAT THE INDIVIDUAL AND HAS AGREED TO ACCEPT THE**

1 TRANSFER OF THE INDIVIDUAL AND TO PROVIDE APPROPRIATE MEDICAL
2 TREATMENT;

3 (3) THE TRANSFERRING HOSPITAL PROVIDES TO THE RECEIVING
4 FACILITY ALL MEDICAL RECORDS OR COPIES OF MEDICAL RECORDS RELATING TO:

5 (I) THE INDIVIDUAL'S EMERGENCY MEDICAL CONDITION;

6 (II) OBSERVATION OF SIGNS AND SYMPTOMS;

7 (III) PRELIMINARY DIAGNOSIS;

8 (IV) TREATMENT PROVIDED;

9 (V) TEST RESULTS;

10 (VI) THE INFORMED WRITTEN CONSENT AND CERTIFICATION
11 REQUIRED UNDER ITEM (5) OF THIS PARAGRAPH; AND

12 (VII) THE NAME AND ADDRESS OF ANY ON-CALL PHYSICIAN WHO
13 HAS REFUSED OR FAILED TO APPEAR WITHIN A REASONABLE TIME TO PROVIDE
14 NECESSARY STABILIZING TREATMENT;

15 (4) THE TRANSFER IS EFFECTED THROUGH QUALIFIED PERSONNEL
16 AND TRANSPORTATION EQUIPMENT, INCLUDING THE USE OF NECESSARY AND
17 MEDICALLY APPROPRIATE LIFE SUPPORT MEASURES DURING THE TRANSFER; AND

18 (5) (I) THE INDIVIDUAL OR THE INDIVIDUAL'S REPRESENTATIVE,
19 AFTER BEING INFORMED OF THE HOSPITAL'S RESPONSIBILITIES UNDER THIS
20 SECTION AND THE RISKS OF TRANSFER, REQUESTS IN WRITING THE TRANSFER TO
21 ANOTHER FACILITY; AND

22 (II) 1. A PHYSICIAN HAS SIGNED A CERTIFICATION THAT:

23 A. STATES THAT BASED ON THE INFORMATION
24 AVAILABLE AT THE TIME OF TRANSFER, THE MEDICAL BENEFITS REASONABLY
25 EXPECTED FROM THE PROVISION OF APPROPRIATE MEDICAL TREATMENT AT
26 ANOTHER MEDICAL FACILITY OUTWEIGH THE RISKS TO THE INDIVIDUAL AND, IN
27 THE CASE OF LABOR, TO THE UNBORN CHILD FROM EFFECTING THE TRANSFER; AND

28 B. CONTAINS A SUMMARY OF THE RISKS AND BENEFITS
29 OF TRANSFER; OR

1 **2. IF A PHYSICIAN IS NOT PHYSICALLY PRESENT IN THE**
2 **EMERGENCY DEPARTMENT AT THE TIME THE INDIVIDUAL IS TRANSFERRED, A**
3 **QUALIFIED MEDICAL PROVIDER HAS SIGNED A CERTIFICATION THAT:**

4 **A. STATES THAT BASED ON THE INFORMATION**
5 **AVAILABLE AT THE TIME OF TRANSFER, THE MEDICAL BENEFITS REASONABLY**
6 **EXPECTED FROM THE PROVISION OF APPROPRIATE MEDICAL TREATMENT AT**
7 **ANOTHER MEDICAL FACILITY OUTWEIGH THE RISKS TO THE INDIVIDUAL AND, IN**
8 **THE CASE OF LABOR, TO THE UNBORN CHILD FROM EFFECTING THE TRANSFER;**

9 **B. CONTAINS A SUMMARY OF THE RISKS AND BENEFITS**
10 **OF TRANSFER; AND**

11 **C. IS SUBSEQUENTLY COUNTERSIGNED BY A PHYSICIAN**
12 **WHO, IN CONSULTATION WITH THE QUALIFIED MEDICAL PROVIDER, HAS MADE THE**
13 **DETERMINATION THAT BASED ON THE INFORMATION AVAILABLE AT THE TIME OF**
14 **TRANSFER, THE MEDICAL BENEFITS REASONABLY EXPECTED FROM THE PROVISION**
15 **OF APPROPRIATE MEDICAL TREATMENT AT ANOTHER MEDICAL FACILITY**
16 **OUTWEIGHED THE RISKS TO THE INDIVIDUAL AND, IN THE CASE OF LABOR, TO THE**
17 **UNBORN CHILD FROM EFFECTING THE TRANSFER.**

18 **(G) IF A PHYSICIAN DETERMINES AFTER THE MEDICAL SCREENING THAT AN**
19 **INDIVIDUAL REQUIRES THE SERVICES OF A PHYSICIAN ON THE HOSPITAL'S LIST OF**
20 **ON-CALL PHYSICIANS, AND THE ON-CALL PHYSICIAN REFUSES OR FAILS TO APPEAR**
21 **WITHIN A REASONABLE PERIOD OF TIME AFTER NOTIFICATION FROM THE**
22 **PHYSICIAN, THE PHYSICIAN WHO PROVIDED NOTIFICATION TO THE ON-CALL**
23 **PHYSICIAN IS NOT LIABLE FOR A PENALTY UNDER THIS SECTION FOR A TRANSFER**
24 **THAT OTHERWISE MET THE REQUIREMENTS OF SUBSECTION (F) OF THIS SECTION.**

25 **(H) A HOSPITAL THAT HAS SPECIALIZED CAPABILITIES OR FACILITIES OR A**
26 **REGIONAL REFERRAL CENTER MAY NOT REFUSE AN APPROPRIATE TRANSFER OF AN**
27 **INDIVIDUAL WHO REQUIRES THE HOSPITAL'S SPECIALIZED CAPABILITIES OR**
28 **FACILITIES IF THE HOSPITAL HAS THE CAPACITY TO TREAT THE INDIVIDUAL.**

29 **(I) A HOSPITAL MAY NOT DELAY PROVIDING AN APPROPRIATE MEDICAL**
30 **SCREENING EXAMINATION OR FURTHER MEDICAL EXAMINATION TO INQUIRE ABOUT**
31 **THE INDIVIDUAL'S METHOD OF PAYMENT OR INSURANCE STATUS.**

32 **(J) A HOSPITAL MAY NOT PENALIZE OR TAKE OTHER ADVERSE ACTION**
33 **AGAINST:**

1 **(1) A QUALIFIED MEDICAL PROVIDER IF THE PROVIDER REFUSES TO**
2 **AUTHORIZE THE TRANSFER OF AN INDIVIDUAL WITH AN EMERGENCY MEDICAL**
3 **CONDITION THAT HAS NOT BEEN STABILIZED; OR**

4 **(2) A HOSPITAL EMPLOYEE IF THE EMPLOYEE REPORTS A VIOLATION**
5 **OF THIS SECTION.**

6 **(K) A HOSPITAL THAT NEGLIGENTLY VIOLATES THIS SECTION IS SUBJECT**
7 **TO A CIVIL PENALTY OF:**

8 **(1) FOR A HOSPITAL WITH 100 OR MORE BEDS, NOT MORE THAN**
9 **\$50,000 FOR EACH VIOLATION; OR**

10 **(2) FOR A HOSPITAL WITH FEWER THAN 100 BEDS, NOT MORE THAN**
11 **\$25,000 FOR EACH VIOLATION.**

12 **(L) (1) A PHYSICIAN, INCLUDING AN ON-CALL PHYSICIAN, WHO IS**
13 **RESPONSIBLE FOR THE EXAMINATION, TREATMENT, OR TRANSFER OF AN**
14 **INDIVIDUAL UNDER THIS SECTION AND WHO NEGLIGENTLY VIOLATES THIS SECTION**
15 **IS SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN \$50,000 FOR EACH VIOLATION.**

16 **(2) IF A PHYSICIAN, INCLUDING AN ON-CALL PHYSICIAN, WHO IS**
17 **RESPONSIBLE FOR THE EXAMINATION, TREATMENT, OR TRANSFER OF AN**
18 **INDIVIDUAL UNDER THIS SECTION IS FOUND TO BE GROSSLY NEGLIGENT IN A**
19 **VIOLATION OF THIS SECTION OR IS FOUND TO HAVE REPEATEDLY VIOLATED THIS**
20 **SECTION, THE PHYSICIAN IS SUBJECT TO EXCLUSION FROM PARTICIPATION IN THE**
21 **MARYLAND MEDICAL ASSISTANCE PROGRAM.**

22 **(M) (1) IN A CIVIL ACTION AGAINST A HOSPITAL FOR A VIOLATION OF THIS**
23 **SECTION, AN INDIVIDUAL WHO INCURS PERSONAL HARM AS A DIRECT RESULT OF**
24 **THE VIOLATION MAY OBTAIN DAMAGES AVAILABLE FOR PERSONAL INJURY AND**
25 **APPROPRIATE EQUITABLE RELIEF.**

26 **(2) IN A CIVIL ACTION AGAINST A HOSPITAL FOR A VIOLATION OF THIS**
27 **SECTION, A MEDICAL FACILITY THAT INCURS A FINANCIAL LOSS AS THE RESULT OF**
28 **THE VIOLATION MAY OBTAIN DAMAGES FOR FINANCIAL LOSS AND APPROPRIATE**
29 **EQUITABLE RELIEF.**

30 **(3) A CIVIL ACTION AUTHORIZED UNDER THIS PARAGRAPH SHALL BE**
31 **FILED WITHIN 2 YEARS AFTER THE DATE THE CAUSE OF ACTION OCCURS.**

1 (b) (1) [A] EXCEPT AS PROVIDED IN § 19-342.1 OF THIS ARTICLE, A
2 licensed hospital, hospital director, or hospital governing board may not be required:

3 (i) To [permit] AUTHORIZE, within the hospital, the performance
4 of any medical procedure that results in artificial insemination, sterilization, or
5 termination of pregnancy; or

6 (ii) To refer to any source for these medical procedures.

7 (2) The refusal to [permit] AUTHORIZE or to refer to a source for these
8 procedures may not be grounds for:

9 (i) Civil liability to another person; or

10 (ii) Disciplinary or other recriminatory action against the person by
11 this State or any person.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2024.