

HOUSE BILL 423

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HB 1120/01 - ENV

2002 Regular Session
2r1471

By: **Delegates Pitkin, Barkley, Bobo, Boutin, Clagett, Conroy, DeCarlo, Dobson, Dypski, Frush, Healey, Heller, Howard, Hubers, V. Jones, Menes, Riley, Rosenberg, Rosso, Sophocleus, Turner, and Walkup**

Introduced and read first time: January 29, 2002

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Health Care Facilities - Pain Management - The "Fifth Vital Sign"**

3 FOR the purpose of requiring health care facilities to assess and monitor pain as a
4 vital sign in patients and residents; requiring certain documentation by health
5 care facilities; requiring the Secretary of Health and Mental Hygiene to adopt
6 certain regulations; adding the right to have pain assessed, managed, and
7 treated to the patient's bill of rights for hospitals and related institutions;
8 requiring certain other health care facilities to add pain management to any
9 patient's bill of rights or similar document distributed; requiring health care
10 facilities to implement a certain pain management training program developed
11 by the Department of Health and Mental Hygiene; requiring the Department to
12 develop the pain management program; and generally relating to pain
13 management and health care facilities.

14 BY repealing and reenacting, with amendments,
15 Article - Health - General
16 Section 19-342 and 19-343
17 Annotated Code of Maryland
18 (2000 Replacement Volume and 2001 Supplement)

19 BY adding to
20 Article - Health - General
21 Section 19-353; and 19-3C-01 to be under the new subtitle "Subtitle 3C. Pain
22 Management"
23 Annotated Code of Maryland
24 (2000 Replacement Volume and 2001 Supplement)

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

1 **Article - Health - General**

2 19-342.

3 (A) Each administrator of a hospital is responsible for making available to
4 each patient in the hospital a copy of the patient's bill of rights that the hospital
5 adopts under the Joint Commission on Accreditation of Hospitals' guidelines.

6 (B) THE PATIENT'S BILL OF RIGHTS SHALL INCLUDE A STATEMENT THAT A
7 PATIENT HAS A RIGHT TO EXPECT AND RECEIVE APPROPRIATE ASSESSMENT,
8 MANAGEMENT, AND TREATMENT OF PAIN AS AN INTEGRAL COMPONENT OF THE
9 PATIENT'S CARE.

10 19-343.

11 (a) In this section and §§ 19-344 and 19-345 of this subtitle, "facility" means
12 a related institution that, under the rules and regulations of the Department, is a
13 comprehensive care facility or an extended care facility.

14 (b) (1) The General Assembly intends to promote the interests and
15 well-being of each resident of a facility.

16 (2) It is the policy of this State that, in addition to any other rights, each
17 resident of a facility has the following basic rights:

18 (i) The right to be treated with consideration, respect, and full
19 recognition of human dignity and individuality;

20 (ii) The right to receive treatment, care, and services that are
21 adequate, appropriate, and in compliance with relevant State and federal laws, rules,
22 and regulations;

23 (iii) The right to privacy;

24 (iv) The right to be free from mental and physical abuse;

25 (V) THE RIGHT TO EXPECT AND RECEIVE APPROPRIATE
26 ASSESSMENT, MANAGEMENT, AND TREATMENT OF PAIN AS AN INTEGRAL
27 COMPONENT OF THE PATIENT'S CARE;

28 [(v)] (VI) The right to be free from physical and chemical restraints,
29 except for restraints that a physician authorizes for a clearly indicated medical need;

30 [(vi)] (VII) The right to receive respect and privacy in a medical care
31 program; and

32 [(vii)] (VIII) The right to manage personal financial affairs.

33 (c) Each facility shall:

1 (1) Post, conspicuously in a public place, the policy set forth in subsection
2 (b) of this section and the provisions in §§ 19-344(b) through (m), 19-345, and
3 19-346(i)(2) of this subtitle;

4 (2) Give a copy of the policy and those provisions:

5 (i) On admission, to the resident;

6 (ii) To the guardian, next of kin, or sponsoring agency of the
7 resident; and

8 (iii) To a representative payee of the resident;

9 (3) Keep a receipt for the copy that is signed by the person who received
10 the copy; and

11 (4) Provide appropriate staff training to carry out the policy and those
12 provisions.

13 19-353.

14 A HEALTH CARE FACILITY THAT IS NOT COVERED UNDER § 19-342 OR § 19-343 OF
15 THIS SUBTITLE SHALL INCLUDE IN A PATIENT'S BILL OF RIGHTS OR SIMILAR
16 DOCUMENT THAT IS PROVIDED TO THE PATIENT OR RESIDENT A STATEMENT THAT A
17 PATIENT OR RESIDENT HAS THE RIGHT TO EXPECT AND RECEIVE APPROPRIATE
18 ASSESSMENT, MANAGEMENT, AND TREATMENT OF PAIN AS AN INTEGRAL
19 COMPONENT OF THAT PATIENT'S OR RESIDENT'S CARE.

20 SUBTITLE 3C. PAIN MANAGEMENT.

21 19-3C-01.

22 (A) IN THIS SECTION, "HEALTH CARE FACILITY" HAS THE MEANING PROVIDED
23 UNDER § 19-114 OF THIS TITLE.

24 (B) IN ADDITION TO MONITORING BLOOD PRESSURE, PULSE, RESPIRATION,
25 AND TEMPERATURE, A HEALTH CARE FACILITY, AS DEFINED UNDER § 19-114 OF THIS
26 TITLE, SHALL:

27 (1) ROUTINELY ASSESS AND MONITOR PAIN WHEN MONITORING THE
28 VITAL SIGNS OF A PATIENT OR RESIDENT; AND

29 (2) MAINTAIN WRITTEN POLICIES AND PROCEDURES FOR THE
30 ASSESSMENT AND MONITORING OF PAIN.

31 (C) IN MONITORING PAIN IN A PATIENT OR RESIDENT, A HEALTH CARE
32 FACILITY SHALL:

33 (1) ROUTINELY INQUIRE WHETHER THE PATIENT OR RESIDENT IS IN
34 PAIN;

1 (2) ASK THE PATIENT OR RESIDENT TO RATE THE PATIENT'S OR
2 RESIDENT'S DEGREE OF PAIN;

3 (3) ROUTINELY RECORD LEVELS OF PAIN INTENSITY ON THE PATIENT'S
4 OR RESIDENT'S CHART;

5 (4) REASSESS THE PATIENT OR RESIDENT FOR PAIN AFTER THE
6 ADMINISTRATION OF ANY TREATMENT OR MEDICATION FOR THE RELIEF OF PAIN;
7 AND

8 (5) RECORD THE EFFECT OF ANY TREATMENT OR MEDICATION
9 ADMINISTERED TO THE PATIENT OR RESIDENT FOR RELIEF OF PAIN.

10 (D) (1) (I) THE DEPARTMENT SHALL DEVELOP A PAIN MANAGEMENT
11 TRAINING PROGRAM TO ENSURE THE COMPETENCE IN PAIN MANAGEMENT OF
12 INDIVIDUALS THAT PROVIDE MEDICAL CARE DIRECTLY TO PATIENTS IN HEALTH
13 CARE FACILITIES.

14 (II) THE PROGRAM MAY INCLUDE:

15 1. APPROVED IN-HOUSE TRAINING AT THE HEALTH CARE
16 FACILITY; AND

17 2. APPROVED TRAINING PROGRAMS, CLASSES, OR SEMINARS
18 OUTSIDE OF THE FACILITY.

19 (2) A HEALTH CARE FACILITY SHALL:

20 (I) IMPLEMENT THE PAIN MANAGEMENT TRAINING PROGRAM
21 DEVELOPED BY THE DEPARTMENT; AND

22 (II) REQUIRE ATTENDANCE IN THE PROGRAM BY ALL EMPLOYEES
23 OR INDIVIDUALS WHO WORK IN THE HEALTH CARE FACILITY AND PROVIDE MEDICAL
24 CARE DIRECTLY TO PATIENTS.

25 (E) FACILITIES WHO ARE CURRENTLY ACCREDITED BY THE JOINT
26 COMMISSION ON ACCREDITATION OF HEALTH CARE ORGANIZATIONS ("JCAHO") AND
27 WHO HAVE MET THE PAIN MANAGEMENT STANDARDS ESTABLISHED BY THAT
28 ORGANIZATION SHALL BE DEEMED IN COMPLIANCE WITH THIS SUBTITLE.

29 (F) THE SECRETARY SHALL ADOPT REGULATIONS TO IMPLEMENT THE
30 PROVISIONS OF THIS SUBTITLE.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 October 1, 2002.