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

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Assigned to: Environmental Matters

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 12, 2002

CHAPTER _____

1 AN ACT concerning

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

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

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

20 BY adding to
21 Article - Health - General
22 Section 19-353; ~~and 19-3C-01 to be under the new subtitle "Subtitle 3C. Pain~~

1 **Management**
2 Annotated Code of Maryland
3 (2000 Replacement Volume and 2001 Supplement)

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

6 **Article - Health - General**

7 19-342.

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

11 (B) **THE PATIENT'S BILL OF RIGHTS SHALL INCLUDE A STATEMENT THAT A**
12 **PATIENT HAS A RIGHT TO EXPECT AND RECEIVE APPROPRIATE ASSESSMENT,**
13 **MANAGEMENT, AND TREATMENT OF PAIN AS AN INTEGRAL COMPONENT OF THE**
14 **PATIENT'S CARE.**

15 19-343.

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

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

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

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

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

28 (iii) The right to privacy;

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

30 (V) **THE RIGHT TO EXPECT AND RECEIVE APPROPRIATE**
31 **ASSESSMENT, MANAGEMENT, AND TREATMENT OF PAIN AS AN INTEGRAL**
32 **COMPONENT OF THE PATIENT'S CARE;**

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

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

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

4 (c) Each facility shall:

5 (1) Post, conspicuously in a public place, the policy set forth in subsection
6 (b) of this section and the provisions in §§ 19-344(b) through (m), 19-345, and
7 19-346(i)(2) of this subtitle;

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

9 (i) On admission, to the resident;

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

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

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

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

17 19-353.

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

24 ~~SUBTITLE 3C. PAIN MANAGEMENT.~~

25 ~~19-3C-01.~~

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

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

31 ~~(1) ROUTINELY ASSESS AND MONITOR PAIN WHEN MONITORING THE~~
32 ~~VITAL SIGNS OF A PATIENT OR RESIDENT; AND~~

33 ~~(2) MAINTAIN WRITTEN POLICIES AND PROCEDURES FOR THE~~
34 ~~ASSESSMENT AND MONITORING OF PAIN.~~

1 ~~(C) IN MONITORING PAIN IN A PATIENT OR RESIDENT, A HEALTH CARE~~
2 ~~FACILITY SHALL:~~

3 ~~(1) ROUTINELY INQUIRE WHETHER THE PATIENT OR RESIDENT IS IN~~
4 ~~PAIN;~~

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

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

9 ~~(4) REASSESS THE PATIENT OR RESIDENT FOR PAIN AFTER THE~~
10 ~~ADMINISTRATION OF ANY TREATMENT OR MEDICATION FOR THE RELIEF OF PAIN;~~
11 ~~AND~~

12 ~~(5) RECORD THE EFFECT OF ANY TREATMENT OR MEDICATION~~
13 ~~ADMINISTERED TO THE PATIENT OR RESIDENT FOR RELIEF OF PAIN.~~

14 ~~(D) (1) (I) THE DEPARTMENT SHALL DEVELOP A PAIN MANAGEMENT~~
15 ~~TRAINING PROGRAM TO ENSURE THE COMPETENCE IN PAIN MANAGEMENT OF~~
16 ~~INDIVIDUALS THAT PROVIDE MEDICAL CARE DIRECTLY TO PATIENTS IN HEALTH~~
17 ~~CARE FACILITIES.~~

18 ~~(II) THE PROGRAM MAY INCLUDE:~~

19 ~~1. APPROVED IN-HOUSE TRAINING AT THE HEALTH CARE~~
20 ~~FACILITY; AND~~

21 ~~2. APPROVED TRAINING PROGRAMS, CLASSES, OR SEMINARS~~
22 ~~OUTSIDE OF THE FACILITY.~~

23 ~~(2) A HEALTH CARE FACILITY SHALL:~~

24 ~~(I) IMPLEMENT THE PAIN MANAGEMENT TRAINING PROGRAM~~
25 ~~DEVELOPED BY THE DEPARTMENT; AND~~

26 ~~(II) REQUIRE ATTENDANCE IN THE PROGRAM BY ALL EMPLOYEES~~
27 ~~OR INDIVIDUALS WHO WORK IN THE HEALTH CARE FACILITY AND PROVIDE MEDICAL~~
28 ~~CARE DIRECTLY TO PATIENTS.~~

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

33 ~~(F) THE SECRETARY SHALL ADOPT REGULATIONS TO IMPLEMENT THE~~
34 ~~PROVISIONS OF THIS SUBTITLE.~~

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

