

SENATE BILL 269

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2002 Regular Session
(21r0865)

ENROLLED BILL

-- Education, Health, and Environmental Affairs/Environmental Matters --

Introduced by **Senators Hollinger, Blount, Bromwell, Forehand, Hoffman,
Kelley, Lawlah, Roesser, Ruben, and Sfikas**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Health Care - Programs and Facilities - Pain Management**

3 FOR the purpose of adding the right to have pain assessed, managed, and treated to
4 the patient's bill of rights for hospitals and related institutions; requiring certain
5 other health care facilities to add pain management to any patient's bill of rights
6 or similar document distributed; establishing a State Advisory Council on Pain
7 Management; specifying the membership, terms, and purpose of the Advisory
8 Council; authorizing the Advisory Council to consult with certain individuals ~~or~~
9 and organization representatives; requiring the Advisory Council to issue
10 certain reports on or before certain dates; ~~requiring certain health care facilities~~
11 ~~to establish certain procedures for the routine monitoring of patient pain;~~
12 providing for the termination of a portion of this Act; and generally relating to
13 pain management and a State Advisory Council on Pain Management; ~~and to~~
14 ~~the monitoring of patient pain by certain health care facilities.~~

15 BY repealing and reenacting, with amendments,

1 Article - Health - General
 2 Section 19-342 and 19-343
 3 Annotated Code of Maryland
 4 (2000 Replacement Volume and 2001 Supplement)

5 BY adding to
 6 Article - Health - General
 7 Section 19-353; and 13-1601 through 13-1605, inclusive, to be under the new
 8 subtitle "Subtitle 16. Advisory Council on Pain Management"; ~~and~~
 9 ~~19-348.1~~
 10 Annotated Code of Maryland
 11 (2000 Replacement Volume and 2001 Supplement)

12 Preamble

13 WHEREAS, Estimates indicate that as many as 34 million people nationwide
 14 suffer from chronic intractable pain; and

15 WHEREAS, Experts acknowledge that patients may be victims of inadequate
 16 pain management as their needs are not met with proper treatment; and

17 WHEREAS, Not only is chronic intractable pain a life debilitating condition, it is
 18 a costly epidemic facing our nation; and

19 WHEREAS, The field of medicine is constantly evolving, and continuing
 20 education in pain management is essential to ensure a patient is receiving the best
 21 care possible; and

22 WHEREAS, State law and policy could play a role in facilitating effective pain
 23 management, thus serving the needs of the citizens of the State; now, therefore,

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

26 Article - Health - General

27 19-342.

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

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

1 19-343.

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

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

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

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

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

14 (iii) The right to privacy;

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

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

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

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

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

24 (c) Each facility shall:

25 (1) Post, conspicuously in a public place, the policy set forth in subsection
 26 (b) of this section and the provisions in §§ 19-344(b) through (m), 19-345, and
 27 19-346(i)(2) of this subtitle;

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

29 (i) On admission, to the resident;

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

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

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

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

5 19-353.

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

12 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
13 read as follows:

14 **Article - Health - General**

15 SUBTITLE 16. ADVISORY COUNCIL ON PAIN MANAGEMENT.

16 13-1601.

17 THERE IS A STATE ADVISORY COUNCIL ON PAIN MANAGEMENT.

18 13-1602.

19 (A) (1) THE ADVISORY COUNCIL CONSISTS OF 13 MEMBERS.

20 (2) OF THE 13 MEMBERS:

21 (I) ONE SHALL BE A MEMBER OF THE SENATE OF MARYLAND
22 APPOINTED BY THE PRESIDENT OF THE SENATE;

23 (II) ONE SHALL BE A MEMBER OF THE HOUSE OF DELEGATES
24 APPOINTED BY THE SPEAKER OF THE HOUSE; AND

25 (III) 11 SHALL BE APPOINTED BY THE GOVERNOR.

26 (3) OF THE 11 MEMBERS APPOINTED BY THE GOVERNOR:

27 (I) ONE SHALL BE A REPRESENTATIVE OF THE DEPARTMENT OF
28 HEALTH AND MENTAL HYGIENE;

29 (II) ONE SHALL BE A REPRESENTATIVE OF THE ATTORNEY
30 GENERAL;

31 (III) ONE SHALL BE AN ANESTHESIOLOGIST A PHYSICIAN
32 CERTIFIED IN PAIN MANAGEMENT;

1 ~~(IV)~~ ~~ONE SHALL BE A CERTIFIED REGISTERED NURSE~~
 2 ~~ANESTHETIST;~~

3 ~~(V)~~ (IV) ONE SHALL BE A CONSUMER;

4 ~~(VI)~~ (V) ONE SHALL BE A DENTIST;

5 ~~(VII)~~ (VI) ONE SHALL BE AN ETHICIST;

6 ~~(VIII)~~ (VII) ONE SHALL BE A ~~GERIATRICIAN~~ PHYSICIAN CERTIFIED
 7 IN GERIATRIC MEDICINE;

8 ~~(IX)~~ (VIII) ONE SHALL BE A PEDIATRICIAN;

9 ~~(X)~~ (IX) ONE SHALL BE A PHARMACIST; AND

10 ~~(XI)~~ (X) ~~ONE TWO SHALL BE A REGISTERED NURSE~~ NURSES
 11 WITH EXPERTISE IN HOSPICE, ONCOLOGY, LONG-TERM CARE, ANESTHESIA, OR PAIN
 12 MANAGEMENT.

13 (B) (1) THE TERM OF A MEMBER IS 2 YEARS.

14 (2) IF A VACANCY OCCURS DURING THE TERM OF A MEMBER, THE
 15 GOVERNOR SHALL APPOINT A SUCCESSOR WHO WILL SERVE ONLY FOR THE REST OF
 16 THE TERM AND UNTIL ANOTHER SUCCESSOR IS APPOINTED AND QUALIFIES.

17 (C) THE GOVERNOR MAY REMOVE A MEMBER FOR INCOMPETENCE OR
 18 MISCONDUCT.

19 13-1603.

20 THE ADVISORY COUNCIL SHALL ELECT A CHAIRMAN FROM AMONG THE
 21 MEMBERS OF THE ADVISORY COUNCIL.

22 13-1604.

23 (A) A MAJORITY OF THE MEMBERS SERVING ON THE ADVISORY COUNCIL
 24 REPRESENTS A QUORUM TO DO BUSINESS.

25 (B) (1) THE ADVISORY COUNCIL SHALL MEET AT LEAST FOUR TIMES A YEAR,
 26 AT THE TIMES AND PLACES THAT IT DETERMINES.

27 (2) THE DEPARTMENT SHALL PUBLISH NOTIFICATION OF THE
 28 MEETINGS.

29 (C) A MEMBER OF THE ADVISORY COUNCIL:

30 (1) MAY NOT RECEIVE COMPENSATION; BUT

31 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE
 32 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

1 (D) THE SECRETARY SHALL DESIGNATE THE STAFF NECESSARY TO CARRY
2 OUT THIS SUBTITLE.

3 13-1605.

4 (A) THE PURPOSE OF THE ADVISORY COUNCIL SHALL BE TO PROVIDE ADVICE
5 AND RECOMMENDATIONS WITH RESPECT TO PAIN MANAGEMENT POLICY,
6 INCLUDING THE FOLLOWING:

7 (1) ACUTE AND CHRONIC PAIN MANAGEMENT TREATMENT PRACTICES
8 BY HEALTH CARE PROVIDERS IN MARYLAND;

9 (2) STATE STATUTES AND REGULATIONS RELATING TO PAIN
10 MANAGEMENT THERAPIES;

11 (3) THE SANCTION AND USE OF ALTERNATIVE THERAPIES;

12 (4) ACUTE AND CHRONIC PAIN MANAGEMENT EDUCATION PROVIDED
13 BY MEDICAL, NURSING, PHARMACY, AND DENTAL SCHOOLS IN THIS STATE;

14 (5) ACUTE AND CHRONIC PAIN MANAGEMENT NEEDS OF BOTH ADULTS
15 AND CHILDREN;

16 (6) DEVELOPMENT OF A PAIN MANAGEMENT RESOURCE COMPENDIUM
17 AND A PALLIATIVE CARE HOT LINE; AND

18 (7) OTHER ISSUES RELATING TO PAIN MANAGEMENT THAT THE
19 ADVISORY COUNCIL DEEMS APPROPRIATE.

20 (B) IN ACHIEVING ITS PURPOSE, THE ADVISORY COUNCIL MAY, AS
21 APPROPRIATE, CONSULT WITH THE FOLLOWING INDIVIDUALS, ORGANIZATIONS, OR
22 ENTITIES:

23 (1) AN ACUPUNCTURIST;

24 (2) THE AMERICAN ASSOCIATION OF RETIRED PERSONS;

25 (3) THE DEPARTMENT OF AGING;

26 (4) AN AIDS SPECIALIST;

27 (5) THE AMERICAN CANCER SOCIETY;

28 (6) THE ASSOCIATION OF MARYLAND HOSPITALS AND HEALTH
29 SYSTEMS;

30 (7) A CAREGIVER FOR AN INDIVIDUAL CURRENTLY BEING TREATED FOR
31 CHRONIC PAIN;

32 (8) A COMMUNITY PHARMACIST;

- 1 (9) THE HEALTH CARE FACILITIES ASSOCIATION OF MARYLAND;
- 2 (10) A HOME HEALTH REGISTERED NURSE;
- 3 (11) THE HOSPICE NETWORK OF MARYLAND;
- 4 (12) AN INDIVIDUAL CURRENTLY BEING TREATED FOR CHRONIC PAIN;
- 5 (13) THE JOHNS HOPKINS UNIVERSITY SCHOOL OF MEDICINE;
- 6 (14) A LONG-TERM CARE REGISTERED NURSE;
- 7 (15) THE MARYLAND AMBULATORY SURGICAL ASSOCIATION;
- 8 (16) THE MARYLAND PATIENT ADVOCACY GROUP;
- 9 (17) THE MARYLAND PHARMACISTS ASSOCIATION;
- 10 (18) THE MEDICAL AND CHIRURGICAL FACULTY OF MARYLAND;
- 11 (19) THE MID-ATLANTIC NON-PROFIT HEALTH AND HOUSING
12 ASSOCIATION;
- 13 (20) A NURSE ADMINISTRATOR;
- 14 (21) AN ONCOLOGIST;
- 15 (22) A PAIN SPECIALIST;
- 16 (23) THE PHARMACEUTICAL RESEARCH AND MANUFACTURERS OF
17 AMERICA;
- 18 (24) A PHYSICAL THERAPIST;
- 19 (25) A PSYCHIATRIST;
- 20 (26) A PSYCHOLOGIST;
- 21 (27) A RESPIRATORY THERAPIST;
- 22 (28) THE STATE ACUPUNCTURE BOARD;
- 23 (29) THE STATE BOARD OF NURSING;
- 24 (30) THE STATE BOARD OF PHARMACY;
- 25 (31) THE STATE BOARD OF PHYSICIAN QUALITY ASSURANCE;
- 26 (32) A SOCIAL WORKER;
- 27 (33) A SURGEON;

- 1 (34) THE UNITED SENIORS OF MARYLAND;
- 2 (35) THE UNIVERSITY OF MARYLAND DENTAL SCHOOL;
- 3 (36) A MARYLAND LAW SCHOOL;
- 4 (37) THE UNIVERSITY OF MARYLAND SCHOOL OF MEDICINE; ~~AND~~
- 5 (38) THE UNIVERSITY OF MARYLAND SCHOOL OF PHARMACY; ;
- 6 ~~(39) THE AMERICAN PAIN FOUNDATION; AND~~
- 7 ~~(40) A PHYSICIAN WHO SPECIALIZES IN EMERGENCY MEDICINE;~~
- 8 ~~(41) A NURSE WHO SPECIALIZES IN EMERGENCY ROOM MEDICINE; AND~~
- 9 ~~(40) (42) ANY OTHER INDIVIDUAL OR GROUP KNOWLEDGEABLE IN PAIN~~
- 10 ~~MANAGEMENT.~~

11 (C) (1) ON OR BEFORE SEPTEMBER 30, 2003, THE ADVISORY COUNCIL SHALL

12 ISSUE AN INTERIM REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH §

13 2-1246 OF THE STATE GOVERNMENT ARTICLE, THAT INCLUDES RECOMMENDATIONS

14 ON PAIN MANAGEMENT ISSUES IN MARYLAND.

15 (2) ON OR BEFORE SEPTEMBER 30, 2004, THE ADVISORY COUNCIL SHALL

16 ISSUE A FINAL REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1246

17 OF THE STATE GOVERNMENT ARTICLE, THAT INCLUDES RECOMMENDATIONS ON

18 PAIN MANAGEMENT ISSUES IN MARYLAND.

19 ~~SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland~~

20 ~~read as follows:~~

21 ~~**Article—Health—General**~~

22 ~~19-348.1.~~

23 ~~EACH HEALTH CARE FACILITY, AS DEFINED IN § 19-114 OF THIS TITLE, SHALL~~

24 ~~PROVIDE FOR THE ROUTINE MONITORING OF PATIENT PAIN BY ESTABLISHING AND~~

25 ~~MAINTAINING POLICIES AND PROCEDURES FOR:~~

- 26 ~~(1) INQUIRING WHETHER A PATIENT IS IN PAIN;~~
- 27 ~~(2) ASKING A PATIENT TO RATE THE PATIENT'S DEGREE OF PAIN FOR A~~
- 28 ~~SPECIFIED PERIOD OF TIME AND TO RECORD THE PATIENT'S RESPONSES; AND~~
- 29 ~~(3) ROUTINELY RECORDING LEVELS OF PAIN INTENSITY ON PATIENT~~
- 30 ~~CHARTS.~~

31 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect

32 October 1, 2002. ~~Section 1~~ Section 2 of this Act shall remain effective for a period of 2

33 years and, at the end of September 30, 2004, with no further action required by the

1 General Assembly, ~~Section 1~~ Section 2 of this Act shall be abrogated and of no further
2 force and effect.