

BY: Health and Government Operations Committee

AMENDMENTS TO HOUSE BILL NO. 426

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “and Weldon” and substitute “Weldon, Benson, Boteler, Bromwell, Elliott, Frank, Kullen, McDonough, Oaks, Pendergrass, Rudolph, and V. Turner”; strike line 2 in its entirety and substitute “Freestanding Medical Facilities - Licensing and Pilot Project”; strike in their entirety lines 3 through 7, inclusive, and substitute:

“FOR the purpose of requiring the Department of Health and Mental Hygiene to adopt regulations for licensing a certain freestanding medical facility; requiring a freestanding medical facility to meet certain standards; requiring the Department to issue a license to a freestanding medical facility that meets licensure requirements and receives approval from the Maryland Health Care Commission; providing for a certain exception; authorizing the Department to impose certain sanctions against a freestanding medical facility under certain circumstances; requiring the Department, before imposing certain sanctions, to give notice and the opportunity for a hearing and judicial review under the Administrative Procedure Act; requiring the Department, before imposing a directed plan of correction, to give notice and the opportunity for a certain informal hearing; establishing a freestanding medical facility pilot project; requiring the Department to issue a freestanding medical facility license to a freestanding medical facility pilot project under certain circumstances; requiring a freestanding medical facility pilot project to provide to the Maryland Health Care Commission certain information; providing that a certificate of need is not required for a freestanding medical facility pilot project; requiring certain entities to pay claims submitted by a freestanding medical facility pilot project at certain rates; requiring the Maryland Medical Assistance Program to pay certain claims at a certain rate; requiring certain provisions of law to apply to a freestanding medical facility pilot project; requiring certain provisions of law to apply to health maintenance organizations; requiring the Maryland Health Care Commission, in consultation with the Health Services Cost Review Commission and the Department of Health and Mental Hygiene, to propose emergency regulations to

(Over)

establish a certain review process; requiring the regulations to include certain processes, criteria, and notice and hearing requirements; requiring a certain facility to provide certain information to the Maryland Health Care Commission; providing for an exemption from the review process; requiring the Maryland Health Care Commission, in consultation with the Health Services Cost Review Commission, to conduct a certain study and report the findings of the study to certain committees of the General Assembly on or before a certain date; requiring the Health Services Cost Review Commission and Shady Grove Adventist Hospital to report to certain committees of the General Assembly on or before a certain date on certain progress with regard to the freestanding medical facility pilot project; requiring certain entities to report to certain committees of the General Assembly on or before a certain date on the status of certain negotiations; altering the definition of “freestanding medical facility” to provide that it is a facility that is an administrative part of a hospital or related institution; and generally relating to licensing of freestanding medical facilities and a freestanding medical facility pilot project.”;

in line 10, strike “19-120(p)” and substitute “19-131, 19-3A-07, and 19-706(ddd)”; in line 15, strike “19-201(d)(1) and 19-301(g)” and substitute “19-3A-01 through 19-3A-03 and 19-3A-05”; and in line 20, strike “19-301(a)” and substitute “19-3A-04 and 19-3A-06”.

AMENDMENT NO. 2

On pages 2 and 3, strike in their entirety the lines beginning with line 2 on page 2 through line 11 on page 3, inclusive, and substitute:

“19-131.

(A) ON OR BEFORE JULY 1, 2008, THE COMMISSION, IN CONSULTATION WITH THE HEALTH SERVICES COST REVIEW COMMISSION AND THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE, SHALL PROPOSE EMERGENCY REGULATIONS TO ESTABLISH A REVIEW PROCESS TO APPROVE FACILITIES IN THE STATE THAT MAY SEEK LICENSURE AS A FREESTANDING MEDICAL FACILITY, AS PROVIDED IN SUBTITLE 3A OF THIS TITLE.

(B) THE REGULATIONS SHALL INCLUDE:

(1) A PROCESS TO IDENTIFY AREAS OF THE STATE IN WHICH A FREESTANDING MEDICAL FACILITY COULD MEET HEALTH CARE SERVICE DELIVERY NEEDS;

(2) A PROCESS FOR SUBMITTING AND ACTING ON APPLICATIONS;

(3) CRITERIA FOR EVALUATING AND APPROVING APPLICATIONS, INCLUDING:

(I) DOCUMENTATION THAT THE PROPOSED FREESTANDING MEDICAL FACILITY WILL MEET THE LICENSURE REQUIREMENTS OF SUBTITLE 3A OF THIS TITLE;

(II) THE EFFICIENCY AND EFFECTIVENESS OF THE PROPOSED FREESTANDING MEDICAL FACILITY IN MEETING THE HEALTH CARE NEEDS OF THE HEALTH PLANNING REGION;

(III) THE TYPES OF EQUIPMENT AND LEVEL OF STAFFING SPECIFIED, IN RELATION TO THE SERVICES THE FREESTANDING MEDICAL FACILITY PROPOSES TO PROVIDE; AND

(IV) COSTS TO BOTH PUBLIC AND PRIVATE PAYERS; AND

(4) APPROPRIATE NOTICE AND OPPORTUNITY FOR A HEARING AND JUDICIAL REVIEW, IN ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURE ACT.

(C) A FACILITY THAT IS APPROVED UNDER THIS SECTION TO SEEK LICENSURE AS A FREESTANDING MEDICAL FACILITY SHALL PROVIDE TO THE COMMISSION INFORMATION, AS SPECIFIED BY THE COMMISSION, ON THE CONFIGURATION, LOCATION, OPERATION, AND UTILIZATION, INCLUDING PATIENT-LEVEL UTILIZATION, OF THE FREESTANDING MEDICAL FACILITY.

(D) A FREESTANDING MEDICAL FACILITY PILOT PROJECT IS EXEMPT FROM THE REVIEW PROCESS IN SUBSECTIONS (A) AND (B) OF THIS SECTION. 19-3A-01.

In this subtitle, “freestanding medical facility” means a facility:

- (1) In which medical and health services are provided;
- (2) That is physically separate from a hospital or hospital grounds; and
- (3) That is [not] an administrative part of a hospital or related institution, as defined in § 19-301 of this title.

19-3A-02.

(A) [The] ON OR BEFORE JANUARY 1, 2006, THE Department shall adopt regulations for [certifying] LICENSING a freestanding medical facility that uses in its title or advertising the [words] WORD “emergency”[, “urgent care”, or parts of those words] or other language indicating to the public that medical treatment for immediately life-threatening medical conditions is available at that freestanding medical facility. [, which shall include the following standards:

- (1) The freestanding medical facility shall be open 24 hours a day, 7 days a week;
- (2) There shall be at least 1 physician trained in emergency medicine at the facility at all times;
- (3) A sufficient number of registered nurses and other health professionals shall be available at the freestanding medical facility to provide advanced life support;
- (4) Basic X-ray and laboratory facilities shall be available at the freestanding medical facility and operable at all times by 1 radiology technician and 1 laboratory technician;
- (5) Resuscitation equipment, including monitor, defibrillator, cardiac medications, intubation equipment, and intravenous line equipment;

(6) Standard procedures in accordance with the State Emergency Medical Services Plan shall exist for the immediate transport of individuals in need of hospitalization or other more definitive care;

(7) Specific defined role in Emergency Medical Services System with appropriate telephone communication;

(8) Availability of emergency services to all persons regardless of ability to pay;

(9) Adoption, implementation, and enforcement of a policy that requires, except in an emergency life-threatening situation where it is not feasible or practicable, compliance by all employees and medical staff involved in patient care services with the Centers for Disease Control's guidelines on universal precautions; and

(10) Display of the notice developed under § 1-207 of the Health Occupations Article at the entrance to the freestanding medical facility.]

(B) THE REGULATIONS SHALL REQUIRE THE FREESTANDING MEDICAL FACILITY TO:

(1) BE OPEN 24 HOURS A DAY, 7 DAYS A WEEK;

(2) HAVE AVAILABLE AT ALL TIMES:

(I) AT LEAST 1 PHYSICIAN WHO IS CREDENTIALLED IN EMERGENCY MEDICINE BY THE HOSPITAL OF WHICH THE FREESTANDING MEDICAL FACILITY IS AN ADMINISTRATIVE PART;

(II) A SUFFICIENT NUMBER OF REGISTERED NURSES AND OTHER HEALTH CARE PROFESSIONALS TO PROVIDE ADVANCED LIFE SUPPORT;

(III) BASIC DIAGNOSTIC AND LABORATORY FACILITIES AND

(Over)

TECHNICIANS:

(IV) RESUSCITATION SUPPLIES AND EQUIPMENT, INCLUDING MONITORS, DEFIBRILLATORS, CARDIAC MEDICATIONS, INTUBATION EQUIPMENT, AND INTRAVENOUS LINE EQUIPMENT;

(V) A COMMERCIAL AMBULANCE FOR TRANSPORT OF INDIVIDUALS IN NEED OF HOSPITALIZATION OR OTHER EMERGENCY CARE; AND

(V) EMERGENCY SERVICES TO ALL INDIVIDUALS, REGARDLESS OF ABILITY TO PAY;

(3) COMPLY WITH ALL MARYLAND INSTITUTE FOR EMERGENCY MEDICAL SERVICES SYSTEMS EMERGENCY TRANSPORT PROTOCOLS ESTABLISHED FOR THE FREESTANDING MEDICAL FACILITY;

(4) (I) COMPLY, EXCEPT IN A LIFE-THREATENING EMERGENCY IN WHICH COMPLIANCE IS NOT FEASIBLE OR PRACTICABLE, WITH THE FEDERAL CENTERS FOR DISEASE CONTROL GUIDELINES ON UNIVERSAL PRECAUTIONS; AND

(II) DISPLAY THE NOTICE DEVELOPED UNDER § 1-207 OF THE HEALTH OCCUPATIONS ARTICLE THAT EXPLAINS THE FEDERAL CENTERS FOR DISEASE CONTROL'S GUIDELINES ON UNIVERSAL PRECAUTIONS AT THE ENTRANCE TO THE FREESTANDING MEDICAL FACILITY;

(5) REFRAIN FROM USE OF THE WORDS "EMERGENCY DEPARTMENT", "EMERGENCY ROOM", OR "HOSPITAL"; AND

(6) MEET ANY OTHER STANDARD THAT THE SECRETARY DEEMS NECESSARY TO ENSURE THE QUALITY AND SAFETY OF SERVICES PROVIDED BY A FREESTANDING MEDICAL FACILITY.

(a) The Department shall issue a [certificate] LICENSE to a freestanding medical facility that:

(1) [meets the certification] MEETS THE LICENSURE requirements under this [section] SUBTITLE; AND

(2) RECEIVES APPROVAL FROM THE MARYLAND HEALTH CARE COMMISSION UNDER THE REGULATIONS REQUIRED UNDER § 19-131 OF THIS TITLE.

(b) A freestanding medical facility that uses in its title or advertising the [words] WORD “emergency”[, “urgent care”, or parts of those words] or other language indicating to the public that medical treatment for immediately life-threatening medical conditions exist at that facility shall be [certified] LICENSED by the Department before it may operate in this State.

(C) NOTWITHSTANDING SUBSECTION (A)(2) OF THIS SECTION, THE DEPARTMENT MAY NOT REQUIRE A FREESTANDING MEDICAL FACILITY PILOT PROJECT TO BE APPROVED BY THE MARYLAND HEALTH CARE COMMISSION AS A CONDITION OF LICENSURE.

19-3A-04.

The governing body of any county may adopt rules and regulations governing freestanding medical facilities more restrictive than the regulations adopted by the Department.

19-3A-05.

(a) Except as provided in subsection (b) of this section, a person who violates any provision of this subtitle is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$5,000 or imprisonment not exceeding 1 year or both.

(b) (1) [If a freestanding medical facility fails to comply with the requirements of § 19-3A-02(9) and (10) of this subtitle, the Department may impose a fine of up to \$500 per day per violation for each day a violation continues.] IN ADDITION TO OTHER PENALTIES

(Over)

AVAILABLE UNDER LAW, THE DEPARTMENT MAY IMPOSE SANCTIONS AGAINST A FREESTANDING MEDICAL FACILITY THAT FAILS TO COMPLY WITH THIS SUBTITLE OR REGULATIONS ADOPTED UNDER THIS SUBTITLE.

(2) THE SANCTIONS IMPOSED BY THE DEPARTMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION INCLUDE:

(I) A CIVIL PENALTY NOT TO EXCEED \$10,000;

(II) RESTRICTIONS ON THE OPERATION OF THE FREESTANDING MEDICAL FACILITY;

(III) A DIRECTED PLAN OF CORRECTION; AND

(IV) SUSPENSION OR REVOCATION OF THE FREESTANDING MEDICAL FACILITY'S LICENSE.

(C) (1) EXCEPT AS OTHERWISE PROVIDED UNDER THE ADMINISTRATIVE PROCEDURE ACT, BEFORE THE DEPARTMENT MAY IMPOSE SANCTIONS UNDER SUBSECTION (B)(2)(I), (II), OR (IV) OF THIS SECTION, THE DEPARTMENT SHALL GIVE THE FREESTANDING MEDICAL FACILITY NOTICE AND THE OPPORTUNITY FOR A HEARING AND JUDICIAL REVIEW UNDER THE ADMINISTRATIVE PROCEDURE ACT, AS PROVIDED IN TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(2) BEFORE THE DEPARTMENT MAY IMPOSE A DIRECTED PLAN OF CORRECTION, THE DEPARTMENT SHALL GIVE THE FREESTANDING MEDICAL FACILITY NOTICE AND THE OPPORTUNITY FOR A PROMPT INFORMAL HEARING WITH THE DIRECTOR OF THE OFFICE OF HEALTH CARE QUALITY.

19-3A-06.

The circuit court for a county in which a person is operating a freestanding medical facility in violation of a provision of this subtitle may enjoin further operation of the freestanding medical facility that violates this subtitle.

19-3A-07.

(A) THERE IS A FREESTANDING MEDICAL FACILITY PILOT PROJECT.

(B) THE DEPARTMENT SHALL ISSUE A FREESTANDING MEDICAL FACILITY LICENSE TO ONE FREESTANDING MEDICAL FACILITY PILOT PROJECT IF:

(1) THE FREESTANDING MEDICAL FACILITY PILOT PROJECT IS ESTABLISHED BY, AND WILL OPERATE ADMINISTRATIVELY AS PART OF, AN ACUTE CARE GENERAL HOSPITAL;

(2) THE ACUTE CARE GENERAL HOSPITAL IS PART OF A MERGED ASSET SYSTEM WITH ALL OF ITS EXISTING MARYLAND ACUTE CARE GENERAL HOSPITALS LOCATED IN A SINGLE JURISDICTION;

(3) THERE ARE NOT MORE THAN 5 ACUTE CARE GENERAL HOSPITALS IN THE JURISDICTION;

(4) ONE OR MORE OF THE EXISTING ACUTE CARE GENERAL HOSPITALS IN THE MERGED ASSET SYSTEM HAS AN EMERGENCY DEPARTMENT VOLUME OF 75,000 OR MORE VISITS FOR THE 12 MONTHS ENDING JUNE 30, 2004;

(5) THE FREESTANDING MEDICAL FACILITY PILOT PROJECT WILL OPERATE IN MONTGOMERY COUNTY;

(6) THE CAPITAL EXPENDITURE TO IMPLEMENT THE FREESTANDING MEDICAL FACILITY PILOT PROJECT OTHERWISE MEETS THE REQUIREMENTS OF § 19-120(K)(5)(VIII) OF THIS TITLE; AND

(7) THE FREESTANDING MEDICAL FACILITY PILOT PROJECT MEETS THE REQUIREMENTS UNDER § 19-3A-02(B) OF THIS SUBTITLE.

(Over)

(C) (1) A FREESTANDING MEDICAL FACILITY PILOT PROJECT SHALL PROVIDE TO THE MARYLAND HEALTH CARE COMMISSION INFORMATION, AS SPECIFIED BY THE COMMISSION, ON THE CONFIGURATION, LOCATION, OPERATION, AND UTILIZATION, INCLUDING PATIENT-LEVEL UTILIZATION, OF THE PILOT PROJECT.

(2) A CERTIFICATE OF NEED IS NOT REQUIRED FOR A FREESTANDING MEDICAL FACILITY PILOT PROJECT.

(D) (1) THIS SUBSECTION APPLIES TO:

(I) INDIVIDUAL, GROUP, OR BLANKET HEALTH INSURANCE POLICIES AND CONTRACTS DELIVERED OR ISSUED FOR DELIVERY IN THE STATE BY INSURERS, NONPROFIT HEALTH SERVICE PLANS, HEALTH MAINTENANCE ORGANIZATIONS; AND

(II) MEDICAID MANAGED CARE ORGANIZATIONS.

(2) AN ENTITY SUBJECT TO THIS SUBSECTION SHALL PAY THE CLAIM FOR COVERED SERVICES SUBMITTED BY A FREESTANDING MEDICAL FACILITY PILOT PROJECT AT RATES CONSISTENT WITH THE CONTRACT BETWEEN THE ENTITY AND THE FREESTANDING MEDICAL FACILITY PILOT PROJECT.

(E) THE MARYLAND MEDICAL ASSISTANCE PROGRAM SHALL PAY A FEE-FOR-SERVICE CLAIM SUBMITTED BY A FREESTANDING MEDICAL FACILITY PILOT PROJECT AT A RATE AT LEAST EQUAL TO THE RATE PAID BY MEDICARE.

(F) THE PROVISIONS OF §§ 19-3A-01 THROUGH 19-3A-06 SHALL APPLY TO A FREESTANDING MEDICAL FACILITY PILOT PROJECT.

19-706.

(DDD) THE PROVISIONS OF § 19-3A-07(D) OF THIS TITLE APPLY TO HEALTH MAINTENANCE ORGANIZATIONS.

SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland Health Care Commission, in consultation with the Health Services Cost Review Commission, shall conduct a study of the operations, utilization, and financing of freestanding medical facilities, using information on the freestanding medical facility pilot project established in Section 1 of this Act. The findings of the study shall be reported to the Senate Finance Committee and the House Health and Government Operations Committee, in accordance with § 2-1246 of the State Government Article, on or before December 31, 2007.

SECTION 3. AND BE IT FURTHER ENACTED, That, on or before October 1, 2005, the Health Services Cost Review Commission and Shady Grove Adventist Hospital shall report, in accordance with § 2-1246 of the State Government Article, to the Senate Finance Committee and House Health and Government Operations Committee on their progress in obtaining provider-based status from the federal Centers for Medicare and Medicaid Services for the freestanding medical facility pilot project established under § 19-3A-07, as enacted by Section 1 of this Act.

SECTION 4. AND BE IT FURTHER ENACTED, That on or before November 1, 2005, the League of Life and Health Insurers, CareFirst, Inc., United Healthcare, Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc. and Shady Grove Adventist Hospital shall report, in accordance with § 2-1246 of the State Government Article, to the Senate Finance Committee and the House Health and Government Operations Committee on the status of negotiations for payment of services at the freestanding medical facility pilot project established under § 19-3A-07, as enacted by Section 1 of this Act.”.

AMENDMENT NO. 3

On page 3, in line 12, strike “2.” and substitute “5.”; and in line 13, strike “July 1” and substitute “June 1”.