

# HOUSE BILL 499

O2, O3, J3

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By: **Delegates Robinson, Boteler, Cane, Hecht, Howard, McComas, McDonough, Montgomery, Shewell, Stocksdale, and Walkup**  
Introduced and read first time: February 4, 2009  
Assigned to: Health and Government Operations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Department of Health and Mental Hygiene – Health Care Facilities –**  
3 **Database of Terminated Employees**

4 FOR the purpose of requiring the Secretary of Health and Mental Hygiene to establish  
5 a database that includes certain information on certain employees of health care  
6 facilities who provide services to certain individuals and who were terminated  
7 for certain reasons; requiring the placement of a certain employee on the  
8 database under certain circumstances; authorizing certain health care facilities  
9 to have access to the database; prohibiting a health care facility from allowing  
10 an employee to access the database except under certain circumstances;  
11 defining certain terms; and generally relating to a database of terminated  
12 employees of health care facilities.

13 BY repealing and reenacting, without amendments,  
14 Article – Health – General  
15 Section 19–114(d)  
16 Annotated Code of Maryland  
17 (2005 Replacement Volume and 2008 Supplement)

18 BY adding to  
19 Article – Health – General  
20 Section 19–347.1  
21 Annotated Code of Maryland  
22 (2005 Replacement Volume and 2008 Supplement)

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

25 **Article – Health – General**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.  
[Brackets] indicate matter deleted from existing law.



1 19-114.

2 (d) (1) "Health care facility" means:

3 (i) A hospital, as defined in § 19-301 of this title;

4 (ii) A limited service hospital, as defined in § 19-301 of this  
5 title;

6 (iii) A related institution, as defined in § 19-301 of this title;

7 (iv) An ambulatory surgical facility;

8 (v) An inpatient facility that is organized primarily to help in  
9 the rehabilitation of disabled individuals, through an integrated program of medical  
10 and other services provided under competent professional supervision;

11 (vi) A home health agency, as defined in § 19-401 of this title;

12 (vii) A hospice, as defined in § 19-901 of this title; and

13 (viii) Any other health institution, service, or program for which  
14 this Part II of this subtitle requires a certificate of need.

15 (2) "Health care facility" does not include:

16 (i) A hospital or related institution that is operated, or is listed  
17 and certified, by the First Church of Christ Scientist, Boston, Massachusetts;

18 (ii) For the purpose of providing an exemption from a certificate  
19 of need under § 19-120 of this subtitle, a facility to provide comprehensive care  
20 constructed by a provider of continuing care, as defined in § 10-401 of the Human  
21 Services Article, if:

22 1. Except as provided under § 19-123 of this subtitle,  
23 the facility is for the exclusive use of the provider's subscribers who have executed  
24 continuing care agreements and paid entrance fees that are at least equal to the  
25 lowest entrance fee charged for an independent living unit or an assisted living unit  
26 before entering the continuing care community, regardless of the level of care needed  
27 by the subscribers at the time of admission;

28 2. The facility is located on the campus of the continuing  
29 care community; and

30 3. The number of comprehensive care nursing beds in  
31 the community does not exceed:

1                   A.     24 percent of the number of independent living units  
2 in a community having less than 300 independent living units; or

3                   B.     20 percent of the number of independent living units  
4 in a community having 300 or more independent living units;

5                   (iii)   Except for a facility to provide kidney transplant services or  
6 programs, a kidney disease treatment facility, as defined by rule or regulation of the  
7 United States Department of Health and Human Services;

8                   (iv)   Except for kidney transplant services or programs, the  
9 kidney disease treatment stations and services provided by or on behalf of a hospital  
10 or related institution; or

11                   (v)   The office of one or more individuals licensed to practice  
12 dentistry under Title 4 of the Health Occupations Article, for the purposes of  
13 practicing dentistry.

14 **19-347.1.**

15           (A)   (1)   **IN THIS SECTION THE FOLLOWING WORDS HAVE THE**  
16 **MEANINGS INDICATED.**

17                   (2)   **“APPROPRIATE AUTHORITY” INCLUDES CHILD PROTECTIVE**  
18 **SERVICES, THE OFFICE OF HEALTH CARE QUALITY, THE DEPARTMENT, AND**  
19 **LAW ENFORCEMENT AGENCIES.**

20                   (3)   **“HEALTH CARE FACILITY” HAS THE MEANING STATED IN**  
21 **§ 19-114 OF THIS TITLE.**

22           (B)   **THE SECRETARY SHALL ESTABLISH A DATABASE THAT INCLUDES**  
23 **THE NAME AND SOCIAL SECURITY NUMBER FOR ANY EMPLOYEE WHO HAS BEEN**  
24 **TERMINATED FOR ABUSING OR NEGLECTING A PERSON IN A HEALTH CARE**  
25 **FACILITY INCLUDING:**

26                   (1)   **A SENIOR CITIZEN;**

27                   (2)   **A DISABLED INDIVIDUAL;**

28                   (3)   **A DEVELOPMENTALLY DISABLED PERSON;**

29                   (4)   **A PERSON RECEIVING CARE BY AN IN-HOME AIDE; OR**

30                   (5)   **ANY PERSON INCAPABLE OF SELF-DEFENSE.**

1           **(C) THE EMPLOYEE SHALL BE PLACED IN THE DATABASE IF:**

2                   **(1) AN INVESTIGATION IS COMPLETED BY BOTH THE HEALTH**  
3 **CARE FACILITY AND AN APPROPRIATE AUTHORITY;**

4                   **(2) THE ABUSE HAS BEEN DEEMED TO HAVE OCCURRED;**

5                   **(3) THE EMPLOYEE HAS BEEN TERMINATED; AND**

6                   **(4) NO CHARGES HAVE BEEN FILED.**

7           **(D) (1) A HEALTH CARE FACILITY MAY ACCESS THE DATABASE IF**  
8 **THE:**

9                   **(I) LICENSING AUTHORITY HAS DETERMINED THAT THE**  
10 **HEALTH CARE FACILITY SHOULD HAVE ACCESS TO THE DATABASE; AND**

11                   **(II) HEALTH CARE FACILITY IS DETERMINING WHETHER A**  
12 **PERSON SEEKING EMPLOYMENT IS LISTED IN THE DATABASE.**

13                   **(2) THE HEALTH CARE FACILITY MAY NOT ALLOW AN EMPLOYEE**  
14 **TO ACCESS THE DATABASE UNLESS THE EMPLOYEE HAS BEEN GRANTED ACCESS**  
15 **TO CONFIDENTIAL RECORDS.**

16           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
17 October 1, 2009.