

SENATE BILL 435

J3

9lr2089
CF 9lr2081

By: **Senator Della**

Introduced and read first time: February 2, 2009

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Health Care Facilities – Reporting and Reimbursement for Never Events**

3 FOR the purpose of requiring certain hospitals or related institutions or long-term
4 care facilities to report certain never events within a certain period of time;
5 specifying that a failure to report the never event as required will result in a
6 certain rebuttable presumption; prohibiting a hospital or related institution
7 that has been deemed responsible for a never event from receiving certain
8 reimbursement or payment; requiring a long-term care facility that has been
9 deemed responsible for a never event to make certain reimbursements;
10 requiring the Secretary of Health and Mental Hygiene to seek certain
11 authorizations and approvals from the United States Department of Health and
12 Human Services; specifying that any action taken to enforce the provisions of
13 this Act are in addition to other action allowed under State or federal law;
14 defining certain terms; and generally relating to the reporting of and
15 reimbursement for never events.

16 BY adding to

17 Article – Health – General
18 Section 15–146
19 Annotated Code of Maryland
20 (2005 Replacement Volume and 2008 Supplement)

21 BY repealing and reenacting, without amendments,

22 Article – Health – General
23 Section 19–301(f) and (o)
24 Annotated Code of Maryland
25 (2005 Replacement Volume and 2008 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article - Health - General

1

2 **15-146.**

3 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
4 MEANINGS INDICATED.

5 (2) "HOSPITAL" HAS THE MEANING STATED IN § 19-301 OF THIS
6 ARTICLE.

7 (3) "LONG-TERM CARE FACILITY" MEANS A SKILLED NURSING
8 FACILITY, INTERMEDIATE CARE FACILITY, INTERMEDIATE CARE
9 FACILITY-MENTAL RETARDATION, CHRONIC HOSPITAL, TUBERCULOSIS
10 HOSPITAL, OR MENTAL HOSPITAL.

11 (4) "NEVER EVENT" MEANS ANY OCCURRENCE OR CONDITION
12 IDENTIFIED BY THE CENTERS FOR MEDICARE AND MEDICAID SERVICES AS A
13 NEVER EVENT.

14 (5) "RELATED INSTITUTION" HAS THE MEANING STATED IN
15 § 19-301 OF THIS ARTICLE.

16 (B) (1) IF A HOSPITAL OR RELATED INSTITUTION ADMITS OR TREATS
17 A PATIENT FROM A LONG-TERM CARE FACILITY FOR A NEVER EVENT, THE
18 HOSPITAL OR RELATED INSTITUTION SHALL REPORT THE NEVER EVENT TO THE
19 SECRETARY AND THE CENTERS FOR MEDICARE AND MEDICAID SERVICES NO
20 LATER THAN 10 DAYS AFTER THE ADMISSION OR TREATMENT.

21 (2) IF A HOSPITAL OR RELATED INSTITUTION FAILS TO MAKE THE
22 REPORT REQUIRED BY PARAGRAPH (1) OF THIS SUBSECTION, THERE IS A
23 REBUTTABLE PRESUMPTION THAT THE NEVER EVENT OCCURRED AT THE
24 HOSPITAL OR RELATED INSTITUTION UNLESS THE NEVER EVENT WAS
25 PREVIOUSLY REPORTED BY THE LONG-TERM CARE FACILITY.

26 (C) (1) IF A LONG-TERM CARE FACILITY ADMITS OR READMITS A
27 PATIENT WHO HAS EXPERIENCED A NEVER EVENT IN A HOSPITAL OR RELATED
28 INSTITUTION, THE LONG-TERM CARE FACILITY SHALL REPORT THE NEVER
29 EVENT TO THE SECRETARY AND THE CENTERS FOR MEDICARE AND MEDICAID
30 SERVICES NO LATER THAN 10 DAYS AFTER THE ADMISSION OR READMISSION.

31 (2) IF A LONG-TERM CARE FACILITY FAILS TO MAKE THE REPORT
32 REQUIRED BY PARAGRAPH (1) OF THIS SUBSECTION, THERE IS A REBUTTABLE
33 PRESUMPTION THAT THE NEVER EVENT OCCURRED AT THE LONG-TERM CARE

1 FACILITY UNLESS THE NEVER EVENT WAS PREVIOUSLY REPORTED BY THE
2 HOSPITAL OR RELATED INSTITUTION.

3 (D) IF A HOSPITAL OR RELATED INSTITUTION IS DEEMED RESPONSIBLE
4 FOR A NEVER EVENT, THE HOSPITAL OR RELATED INSTITUTION MAY NOT
5 RECEIVE REIMBURSEMENT FROM THE PROGRAM OR MEDICARE FOR ANY
6 TREATMENT RELATED TO THE NEVER EVENT.

7 (E) IF A LONG-TERM CARE FACILITY IS DEEMED RESPONSIBLE FOR A
8 NEVER EVENT, THE LONG-TERM CARE FACILITY:

9 (1) MAY NOT RECEIVE REIMBURSEMENT FROM THE PROGRAM OR
10 MEDICARE FOR ANY TREATMENT RELATED TO THE NEVER EVENT; AND

11 (2) SHALL REIMBURSE THE PROGRAM OR MEDICARE FOR ANY
12 PAYMENTS MADE BY THE PROGRAM OR MEDICARE TO A HOSPITAL OR RELATED
13 INSTITUTION FOR TREATMENT RELATED TO THE NEVER EVENT.

14 (F) THE SECRETARY SHALL SEEK ANY AUTHORIZATIONS OR
15 APPROVALS REQUIRED TO IMPLEMENT THIS SECTION FROM THE UNITED
16 STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES.

17 (G) ANY ACTION TAKEN TO ENFORCE THE PROVISIONS OF THIS
18 SECTION ARE IN ADDITION TO AND NOT IN PLACE OF ANY OTHER ACTION
19 ALLOWED UNDER STATE OR FEDERAL LAW.

20 19-301.

21 (f) "Hospital" means an institution that:

22 (1) Has a group of at least 5 physicians who are organized as a
23 medical staff for the institution;

24 (2) Maintains facilities to provide, under the supervision of the
25 medical staff, diagnostic and treatment services for 2 or more unrelated individuals;
26 and

27 (3) Admits or retains the individuals for overnight care.

28 (o) (1) "Related institution" means an organized institution, environment,
29 or home that:

30 (i) Maintains conditions or facilities and equipment to provide
31 domiciliary, personal, or nursing care for 2 or more unrelated individuals who are

1 dependent on the administrator, operator, or proprietor for nursing care or the
2 subsistence of daily living in a safe, sanitary, and healthful environment; and

3 (ii) Admits or retains the individuals for overnight care.

4 (2) "Related institution" does not include a nursing facility or visiting
5 nurse service that is conducted only by or for adherents of a bona fide church or
6 religious organization, in accordance with tenets and practices that include reliance on
7 treatment by spiritual means alone for healing.

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