

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE
Revised

House Bill 658

(Chair, Health and Government Operations
Committee)(By Request - Departmental - Health and
Mental Hygiene)

Health and Government Operations

Education, Health, and Environmental Affairs

**Public Safety - Emergency Management - Emergency Plans for Human Service
Facilities and Dialysis Centers**

This departmental bill requires a kidney dialysis center to have an emergency plan that includes policies and procedures to be followed before, during, and after an emergency. In addition, the bill specifies that a kidney dialysis center or human service facility is solely responsible for any financial obligation arising from voluntary or mandatory activation of any aspect of the emergency plan developed by the center or facility. However, the bill further specifies that these provisions do not prohibit the facility or center from applying for and receiving reimbursement under any applicable insurance policy or from any State or federal funds that may be available due to a declared State or federal emergency.

The Department of Health and Mental Hygiene (DHMH) must adopt, by January 1, 2013, regulations governing the development of emergency plans by kidney dialysis centers.

Fiscal Summary

State Effect: DHMH, in consultation with other specified agencies, can use existing resources to adopt the required regulations. Potential cost avoidance for DHMH and/or the Maryland Institute for Emergency Medical Services Systems (MIEMSS) due to the bill's provisions related to financial obligation. Revenues are not affected.

Local Effect: Local organizations for emergency management can use existing resources to consult with DHMH regarding the adoption of regulations. Revenues are not affected.

Small Business Effect: DHMH has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment, as discussed below. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary: A kidney dialysis center’s emergency plan must address (1) the safe management of individuals who are receiving services at the kidney dialysis center when an emergency occurs; (2) notification of patients, families, staff, and licensing authorities regarding actions that will be taken concerning the provision of dialysis services to the individuals served by the kidney dialysis center; (3) staff coverage, organization, and assignment of responsibilities; and (4) the continuity of operations, including procedures to secure access to essential goods, equipment, and dialysis services. For purposes of coordinating local emergency planning efforts, a kidney dialysis center must provide local organizations for emergency management with access to the emergency plans developed under the bill.

DHMH must adopt the required regulations in consultation with representatives of the Maryland Emergency Management Agency (MEMA), MIEMSS, local organizations for emergency management, and kidney dialysis centers. In developing the required regulations, DHMH must ensure that the requirements for emergency plans for kidney dialysis centers under the bill do not conflict with federal requirements of kidney dialysis centers.

Current Law: A “kidney dialysis center” is a facility that provides hemodialysis or chronic peritoneal dialysis. A “human service facility” does not include a kidney dialysis center.

A human service facility must develop an emergency plan that includes procedures addressing (1) the evacuation, transportation, or shelter-in-place of individuals served by the facility; (2) the notification to families, staff, and licensing authorities regarding the action that will be taken concerning the safety and well-being of individuals served by the facility; (3) staff coverage, organization, and assignment of responsibilities; and (4) continuity of operations. A human service facility includes a nursing home, assisted living facility, hospital, related institution, State-operated institution for mental disease, group home, alternative living unit, or State residential center.

A State agency that is responsible for the licensing of a human service facility is required to adopt regulations governing the development of emergency plans. These regulations must be developed in consultation with MEMA, MIEMSS, local organizations for emergency management, and human service facilities.

For purposes of coordinating local emergency planning efforts, a human service facility must provide access to the emergency plans to local organizations for emergency management.

Background: DHMH advises that the need for this bill became apparent during evacuations that took place in August 2011 in anticipation of Hurricane Irene. According to DHMH, concerns arose regarding (1) the ability of dialysis centers to transport patients to other dialysis centers; and (2) whether dialysis centers had adequate emergency generator capacity to provide services in the event of a power outage.

DHMH further advises that the bill is needed to clarify that human service facilities are responsible for any financial obligation arising from activation of any aspect of the emergency plan. In anticipation of Hurricane Irene's arrival, several human service facilities voluntarily evacuated at their own expense. According to DHMH, however, one nursing facility (that is located in a coastal area where significant flooding was predicted) refused to evacuate until compelled to do so by an executive order. A dispute as to the financial responsibility for the costs of that evacuation – estimated by MIEMSS to total more than \$150,000 – is ongoing.

Small Business Effect: DHMH advises that the bill's provisions regarding financial responsibility are viewed by the department as clarifying in nature. To the extent that these provisions are in fact clarifying in nature, Legislative Services concurs with the department's assessment that the bill has minimal or no impact on small businesses. However, Legislative Services notes that, as discussed above, an ongoing dispute exists regarding this issue.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Institute for Emergency Medical Services Systems, Department of Health and Mental Hygiene, Military Department, Department of Legislative Services

Fiscal Note History: First Reader - February 21, 2012
mc/mwc Revised - House Third Reader - March 19, 2012
Revised - Enrolled Bill - April 18, 2012

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Public Safety - Emergency Management – Required Emergency Plans for Human Service Facilities – Dialysis Centers

BILL NUMBER: HB 658

PREPARED BY: Department of Health and Mental Hygiene

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

 X WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

 WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

It is not anticipated that development of emergency plans by dialysis centers will have a significant impact on their fiscal operations.

The provisions of the bill providing that a human service facility is financially responsible for the activation of the facility's emergency plans are viewed by the Department as clarification of current policy. Therefore, the fiscal impact of these provisions on human service facilities should be negligible.