

HOUSE BILL 57

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(PRE-FILED)

3lr0795
CF SB 355

By: **Delegate B. Robinson**

Requested: November 13, 2012

Introduced and read first time: January 9, 2013

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 17, 2013

CHAPTER _____

1 AN ACT concerning

2 ~~Department of Health and Mental Hygiene – Health Care Facilities~~ Office of
3 Health Care Quality – Abuser Registry Workgroup

4 FOR the purpose of requiring the ~~Secretary of Health and Mental Hygiene to establish~~
5 ~~a registry 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 ~~registry under certain circumstances; authorizing certain health care facilities~~
9 ~~to submit the names of former employees to the Secretary for inclusion in the~~
10 ~~registry; authorizing certain health care facilities to have access to the registry;~~
11 ~~prohibiting a health care facility from allowing an employee to access the~~
12 ~~registry except under certain circumstances; authorizing a person responsible~~
13 ~~for a certain individual to access the registry; requiring a health care facility to~~
14 ~~adopt a certain procedure, provide certain employee training, and implement a~~
15 ~~certain quality assurance program; prohibiting a health care facility from hiring~~
16 ~~certain individuals; defining certain terms; and generally relating to a registry~~
17 ~~of terminated employees of health care facilities~~ Office of Health Care Quality to
18 reconvene the Abuser Registry Workgroup; requiring the Abuser Registry
19 Workgroup to undertake a certain review, monitor the implementation of
20 certain recommendations, and recommend certain changes; requiring the Office
21 of Health Care Quality to submit a certain report to the Governor and certain
22 legislative committees on or before a certain date; providing for the termination
23 of this Act; and generally relating to an Abuser Registry Workgroup and the
24 Office of Health Care Quality.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 ~~BY repealing and reenacting, without amendments,~~
 2 ~~Article — Health — General~~
 3 ~~Section 19 — 114(d)~~
 4 ~~Annotated Code of Maryland~~
 5 ~~(2009 Replacement Volume and 2012 Supplement)~~

6 ~~BY adding to~~
 7 ~~Article — Health — General~~
 8 ~~Section 19 — 347.1 and 19 — 351(e) and (f)~~
 9 ~~Annotated Code of Maryland~~
 10 ~~(2009 Replacement Volume and 2012 Supplement)~~

11 ~~BY repealing and reenacting, with amendments,~~
 12 ~~Article — Health — General~~
 13 ~~Section 19 — 351(a)~~
 14 ~~Annotated Code of Maryland~~
 15 ~~(2009 Replacement Volume and 2012 Supplement)~~

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

18 ~~Article — Health — General~~

19 ~~19 — 114.~~

20 ~~(d) (1) “Health care facility” means:~~

21 ~~(i) A hospital, as defined in § 19 — 301 of this title;~~

22 ~~(ii) A limited service hospital, as defined in § 19 — 301 of this~~
 23 ~~title;~~

24 ~~(iii) A related institution, as defined in § 19 — 301 of this title;~~

25 ~~(iv) An ambulatory surgical facility;~~

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

29 ~~(vi) A home health agency, as defined in § 19 — 401 of this title;~~

30 ~~(vii) A hospice, as defined in § 19 — 901 of this title;~~

31 ~~(viii) A freestanding medical facility, as defined in § 19 — 3A — 01 of~~
 32 ~~this title; and~~

1 ~~(ix) Any other health institution, service, or program for which~~
2 ~~this Part II of this subtitle requires a certificate of need.~~

3 ~~(2) "Health care facility" does not include:~~

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

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

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

16 ~~2. The facility is located on the campus of the continuing~~
17 ~~care community; and~~

18 ~~3. The number of comprehensive care nursing beds in~~
19 ~~the community does not exceed:~~

20 ~~A. 24 percent of the number of independent living units~~
21 ~~in a community having less than 300 independent living units; or~~

22 ~~B. 20 percent of the number of independent living units~~
23 ~~in a community having 300 or more independent living units;~~

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

27 ~~(iv) Except for kidney transplant services or programs, the~~
28 ~~kidney disease treatment stations and services provided by or on behalf of a hospital~~
29 ~~or related institution; or~~

30 ~~(v) The office of one or more individuals licensed to practice~~
31 ~~dentistry under Title 4 of the Health Occupations Article, for the purposes of~~
32 ~~practicing dentistry.~~

33 ~~19-347.1.~~

1 ~~(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE~~
2 ~~MEANINGS INDICATED.~~

3 ~~(2) "APPROPRIATE AUTHORITY" INCLUDES CHILD PROTECTIVE~~
4 ~~SERVICES, THE OFFICE OF HEALTH CARE QUALITY, THE DEPARTMENT, AND A~~
5 ~~LAW ENFORCEMENT AGENCY.~~

6 ~~(3) "HEALTH CARE FACILITY" HAS THE MEANING STATED IN~~
7 ~~§ 19 114 OF THIS TITLE.~~

8 ~~(B) THE SECRETARY SHALL ESTABLISH A REGISTRY THAT INCLUDES~~
9 ~~THE NAME AND SOCIAL SECURITY NUMBER OF ANY EMPLOYEE WHO HAS BEEN~~
10 ~~TERMINATED FOR ABUSING OR NEGLECTING ANY OF THE FOLLOWING~~
11 ~~INDIVIDUALS IN A HEALTH CARE FACILITY:~~

12 ~~(1) A SENIOR CITIZEN;~~

13 ~~(2) A DISABLED INDIVIDUAL;~~

14 ~~(3) A DEVELOPMENTALLY DISABLED INDIVIDUAL;~~

15 ~~(4) AN INDIVIDUAL RECEIVING CARE BY AN IN-HOME AIDE; OR~~

16 ~~(5) AN INDIVIDUAL INCAPABLE OF SELF-DEFENSE.~~

17 ~~(C) THE EMPLOYEE SHALL BE PLACED IN THE REGISTRY IF:~~

18 ~~(1) THE EMPLOYEE GRIEVANCE PROCEDURE ADOPTED BY THE~~
19 ~~HEALTH CARE FACILITY IN ACCORDANCE WITH § 19 351(E) OF THIS SUBTITLE~~
20 ~~HAS BEEN FOLLOWED;~~

21 ~~(2) AN INVESTIGATION HAS BEEN COMPLETED BY BOTH THE~~
22 ~~HEALTH CARE FACILITY AND AN APPROPRIATE AUTHORITY;~~

23 ~~(3) THE ABUSE HAS BEEN DEEMED TO HAVE OCCURRED;~~

24 ~~(4) THE EMPLOYEE HAS BEEN TERMINATED; AND~~

25 ~~(5) NO CHARGES HAVE BEEN FILED.~~

26 ~~(D) A HEALTH CARE FACILITY MAY SUBMIT THE NAME OF A FORMER~~
27 ~~EMPLOYEE TO THE SECRETARY FOR INCLUSION IN THE REGISTRY IF THE~~
28 ~~HEALTH CARE FACILITY IS IN COMPLIANCE WITH § 19 351(E) OF THIS~~
29 ~~SUBTITLE.~~

1 ~~(E) (1) A HEALTH CARE FACILITY MAY ACCESS THE REGISTRY IF:~~

2 ~~(I) THE LICENSING AUTHORITY HAS DETERMINED THAT~~
3 ~~THE HEALTH CARE FACILITY SHOULD HAVE ACCESS TO THE REGISTRY; AND~~

4 ~~(II) THE HEALTH CARE FACILITY IS DETERMINING~~
5 ~~WHETHER AN INDIVIDUAL SEEKING EMPLOYMENT IS LISTED IN THE REGISTRY.~~

6 ~~(2) THE HEALTH CARE FACILITY MAY NOT ALLOW AN EMPLOYEE~~
7 ~~TO ACCESS THE REGISTRY UNLESS THE EMPLOYEE HAS BEEN GRANTED ACCESS~~
8 ~~TO CONFIDENTIAL RECORDS.~~

9 ~~(F) A PERSON RESPONSIBLE FOR AN INDIVIDUAL WHO IS RECEIVING~~
10 ~~CARE BY AN IN-HOME AIDE MAY ACCESS THE REGISTRY.~~

11 ~~19-351.~~

12 ~~(a) Except as provided in subsections (b) [and], (d), AND (F) of this section,~~
13 ~~this subtitle does not affect the right of a hospital or related institution to employ ANY~~
14 ~~INDIVIDUAL or appoint staff.~~

15 ~~(E) EACH HEALTH CARE FACILITY SHALL:~~

16 ~~(1) ADOPT AN EMPLOYEE GRIEVANCE PROCEDURE;~~

17 ~~(2) PROVIDE EMPLOYEE TRAINING ON THE PROPER HANDLING~~
18 ~~OF CONFIDENTIAL INFORMATION; AND~~

19 ~~(3) IMPLEMENT A QUALITY ASSURANCE PROGRAM THAT IS AIMED~~
20 ~~AT PREVENTING A FORMER EMPLOYEE FROM BEING RECOMMENDED FOR~~
21 ~~INCLUSION IN THE REGISTRY ESTABLISHED UNDER § 19-347.1 OF THIS~~
22 ~~SUBTITLE IF THE RECOMMENDATION IS BEING MADE FOR RETALIATORY~~
23 ~~PURPOSES.~~

24 ~~(F) A HEALTH CARE FACILITY MAY NOT EMPLOY AN INDIVIDUAL WHO IS~~
25 ~~LISTED IN THE REGISTRY ESTABLISHED UNDER § 19-347.1 OF THIS SUBTITLE.~~

26 (a) The Office of Health Care Quality shall reconvene the Abuser Registry
27 Workgroup originally convened in 2012.

28 (b) The Abuser Registry Workgroup shall:

29 (1) review the previous work of the Abuser Registry Workgroup and
30 the alternative approach described in the January 14, 2013, letter from the Acting

1 Executive Director of the Office of Health Care Quality to the sponsors of Senate Bill
 2 316 and House Bill 382 of 2012;

3 (2) monitor the implementation of recommendations included in the
 4 January 23, 2013, letter from the Acting Executive Director of the Office of Health
 5 Care Quality to the House Health and Government Operations Committee relating to:

6 (i) initiating a National Background Check Program supported
 7 by a federal grant;

8 (ii) educating the provider community about best practices for
 9 managing abuse and neglect and utilizing the criminal justice system in cases of abuse
 10 and neglect;

11 (iii) assisting law enforcement in the development of outreach
 12 and training concerning abuse and neglect in health care settings; and

13 (iv) exploring the need to strengthen statutory law relating to
 14 criminal history records checks of employees who are not licensed or certified under
 15 the Health Occupations Article; and

16 (3) recommend changes in statutory law, regulations, or procedures to
 17 deter abuse and neglect in health care settings.

18 (c) On or before January 1, 2014, the Office of Health Care Quality shall
 19 report to the Governor and, in accordance with § 2-1246 of the State Government
 20 Article, the Senate Finance Committee and the House Health and Government
 21 Operations Committee on the findings and recommendations of the Abuser Registry
 22 Workgroup.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 24 ~~October~~ June 1, 2013. It shall remain effective for a period of 1 year and 1 month and,
 25 at the end of June 30, 2014, with no further action required by the General Assembly,
 26 this Act shall be abrogated and of no further force and effect.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.