

HOUSE BILL 581

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By: **Delegates Hubbard, Bobo, Cullison, Donoghue, Pena-Melnyk, and V. Turner**

Introduced and read first time: January 31, 2013

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Hospitals – Establishment of Palliative Care Programs – Required**

3 FOR the purpose of requiring certain hospitals to implement a certain palliative care
4 program on or before a certain date; requiring the palliative care program to
5 include certain policies and procedures; requiring certain counseling about
6 palliative care to include certain information regarding certain rights of
7 patients; requiring the Department of Health and Mental Hygiene to adopt
8 certain regulations on or before a certain date; prohibiting certain regulations
9 from requiring a palliative care program to be led by a certain physician;
10 requiring the Department to conduct a certain survey of certain palliative care
11 programs at certain intervals; requiring the Maryland Hospital Association to
12 provide a certain report to the General Assembly on or before a certain date;
13 defining certain terms; and generally relating to palliative care programs in
14 hospitals in the State.

15 BY adding to

16 Article – Health – General

17 Section 19–308.9

18 Annotated Code of Maryland

19 (2009 Replacement Volume and 2012 Supplement)

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

22 **Article – Health – General**

23 **19–308.9.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **(2) “AUTHORIZED DECISION MAKER” MEANS THE HEALTH CARE**
4 **AGENT OR SURROGATE DECISION MAKER WHO IS MAKING HEALTH CARE**
5 **DECISIONS ON BEHALF OF A PATIENT IN ACCORDANCE WITH §§ 5–601 THROUGH**
6 **5–618 OF THIS ARTICLE.**

7 **(3) “PALLIATIVE CARE” MEANS SPECIALIZED MEDICAL CARE FOR**
8 **INDIVIDUALS WITH SERIOUS ILLNESSES OR CONDITIONS THAT:**

9 **(I) IS FOCUSED ON PROVIDING PATIENTS WITH RELIEF**
10 **FROM THE SYMPTOMS, PAIN, AND STRESS OF A SERIOUS ILLNESS OR**
11 **CONDITION, WHATEVER THE DIAGNOSIS;**

12 **(II) HAS THE GOAL OF IMPROVING QUALITY OF LIFE FOR**
13 **THE PATIENT, THE PATIENT’S FAMILY, AND OTHER CAREGIVERS;**

14 **(III) IS PROVIDED AT ANY AGE AND AT ANY STAGE IN A**
15 **SERIOUS ILLNESS OR CONDITION; AND**

16 **(IV) MAY BE PROVIDED ALONG WITH CURATIVE**
17 **TREATMENT.**

18 **(B) ON OR BEFORE JULY 1, 2016, EACH GENERAL HOSPITAL WITH 50**
19 **OR MORE BEDS THAT DOES NOT HAVE A PALLIATIVE CARE PROGRAM**
20 **ACCREDITED BY AN ACCREDITATION ORGANIZATION APPROVED BY THE**
21 **DEPARTMENT SHALL IMPLEMENT A PALLIATIVE CARE PROGRAM THAT:**

22 **(1) MEETS THE REQUIREMENTS OF THIS SECTION; AND**

23 **(2) COMPLIES WITH REGULATIONS ADOPTED BY THE**
24 **DEPARTMENT UNDER SUBSECTION (E) OF THIS SECTION.**

25 **(C) A HOSPITAL’S NONACCREDITED PALLIATIVE CARE PROGRAM SHALL**
26 **INCLUDE POLICIES AND PROCEDURES ESTABLISHED BY THE HOSPITAL THAT:**

27 **(1) PROVIDE ACCESS TO INFORMATION AND COUNSELING**
28 **REGARDING PALLIATIVE CARE SERVICES APPROPRIATE TO A PATIENT WITH A**
29 **SERIOUS ILLNESS OR CONDITION;**

30 **(2) IDENTIFY THE AUTHORIZED DECISION MAKER OF AN**
31 **INDIVIDUAL WHO LACKS CAPACITY TO MAKE HEALTH CARE DECISIONS IN**

1 ORDER TO PROVIDE THE AUTHORIZED DECISION MAKER ACCESS TO
2 INFORMATION AND COUNSELING REGARDING OPTIONS FOR PALLIATIVE CARE
3 FOR THE PATIENT;

4 (3) REQUIRE PROVIDERS TO ENGAGE IN A DISCUSSION OF THE
5 BENEFITS AND RISKS OF TREATMENT OPTIONS IN A MANNER THAT CAN BE
6 UNDERSTOOD EASILY BY THE PATIENT OR AUTHORIZED DECISION MAKER;

7 (4) ENCOURAGE THE PATIENT OR AUTHORIZED DECISION MAKER
8 TO INCLUDE THE PATIENT'S RELATIVES AND FRIENDS IN COUNSELING
9 REGARDING PALLIATIVE CARE; AND

10 (5) FACILITATE ACCESS TO APPROPRIATE PALLIATIVE CARE
11 CONSULTATIONS AND SERVICES, INCLUDING ASSOCIATED PAIN MANAGEMENT
12 CONSULTATIONS AND SERVICES CONSISTENT WITH A PATIENT'S NEEDS AND
13 PREFERENCES.

14 (D) IF A PATIENT OR AUTHORIZED DECISION MAKER DECIDES TO
15 RECEIVE COUNSELING ABOUT PALLIATIVE CARE, THE COUNSELING SHALL
16 INCLUDE INFORMATION REGARDING THE RIGHT OF THE PATIENT TO:

17 (1) CONTINUE TO PURSUE DISEASE-TARGETED TREATMENT
18 WITH OR WITHOUT CONCURRENT PALLIATIVE CARE; AND

19 (2) RECEIVE COMPREHENSIVE PAIN AND SYMPTOM
20 MANAGEMENT, INCLUDING PAIN MEDICATIONS.

21 (E) (1) THE DEPARTMENT SHALL ADOPT REGULATIONS THAT:

22 (I) SET THE STANDARDS FOR THE OPERATION OF A
23 HOSPITAL'S NONACCREDITED PALLIATIVE CARE PROGRAM; AND

24 (II) IMPLEMENT THE PROVISIONS OF THIS SECTION.

25 (2) THE STANDARDS ADOPTED UNDER PARAGRAPH (1)(I) OF THIS
26 SUBSECTION SHALL BE COMPARABLE TO THE STANDARDS SET BY THE JOINT
27 COMMISSION FOR PALLIATIVE CARE PROGRAMS.

28 (3) THE REGULATIONS ADOPTED UNDER PARAGRAPH (1) OF THIS
29 SUBSECTION MAY NOT REQUIRE THAT A PALLIATIVE CARE PROGRAM BE LED BY
30 A PHYSICIAN WHO IS BOARD CERTIFIED IN PALLIATIVE CARE.

1 **(F) (1) EACH YEAR THE DEPARTMENT SHALL SURVEY AT LEAST 25%**
2 **OF THE NONACCREDITED PALLIATIVE CARE PROGRAMS IN THE STATE TO**
3 **REVIEW COMPLIANCE WITH THIS SECTION AND THE REGULATIONS ADOPTED BY**
4 **THE DEPARTMENT UNDER THIS SECTION.**

5 **(2) AT LEAST ONCE EVERY 4 YEARS, THE DEPARTMENT SHALL**
6 **SURVEY EACH NONACCREDITED PALLIATIVE CARE PROGRAM TO REVIEW**
7 **COMPLIANCE WITH THIS SECTION AND THE REGULATIONS ADOPTED BY THE**
8 **DEPARTMENT UNDER THIS SECTION.**

9 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before January 31,
10 2016, the Department of Health and Mental Hygiene shall adopt the regulations
11 required under § 19–308.9(e) of the Health – General Article, as enacted by Section 1
12 of this Act.

13 SECTION 3. AND BE IT FURTHER ENACTED, That, on or before January 1,
14 2015, the Maryland Hospital Association shall report to the General Assembly, in
15 accordance with § 2–1246 of the State Government Article, on the palliative care
16 programs in operation in hospitals in the State.

17 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2013.