

Chapter 239

(Senate Bill 355)

AN ACT concerning

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

FOR the purpose of requiring the ~~Secretary of Health and Mental Hygiene to establish a registry that includes certain information on certain employees of health care facilities who provide services to certain individuals and who were terminated for certain reasons; requiring the placement of a certain employee on the registry under certain circumstances; authorizing certain health care facilities to submit the names of former employees to the Secretary for inclusion in the registry; authorizing certain health care facilities to have access to the registry; prohibiting a health care facility from allowing an employee to access the registry except under certain circumstances; authorizing a person responsible for a certain individual to access the registry; requiring a health care facility to adopt a certain procedure, provide certain employee training, and implement a certain quality assurance program; prohibiting a health care facility from hiring certain individuals; defining certain terms; and generally relating to a registry of terminated employees of health care facilities~~ Office of Health Care Quality to reconvene the Abuser Registry Workgroup; requiring the Abuser Registry Workgroup to undertake a certain review, monitor the implementation of certain recommendations, and recommend certain changes; requiring the Office of Health Care Quality to submit a certain report to the Governor and certain legislative committees on or before a certain date; providing for the termination of this Act; and generally relating to an Abuser Registry Workgroup and the Office of Health Care Quality.

~~BY repealing and reenacting, without amendments,
Article – Health – General
Section 19-114(d)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)~~

~~BY adding to
Article – Health – General
Section 19-347.1 and 19-351(e) and (f)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)~~

~~BY repealing and reenacting, with amendments,
Article – Health – General~~

~~Section 19-351(a)
Annotated Code of Maryland
(2009 Replacement Volume and 2012 Supplement)~~

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

~~Article Health General~~

~~19-114~~

- ~~(d) (1) "Health care facility" means:~~
- ~~(i) A hospital, as defined in § 19-301 of this title;~~
 - ~~(ii) A limited service hospital, as defined in § 19-301 of this title;~~
 - ~~(iii) A related institution, as defined in § 19-301 of this title;~~
 - ~~(iv) An ambulatory surgical facility;~~
 - ~~(v) An inpatient facility that is organized primarily to help in the rehabilitation of disabled individuals, through an integrated program of medical and other services provided under competent professional supervision;~~
 - ~~(vi) A home health agency, as defined in § 19-401 of this title;~~
 - ~~(vii) A hospice, as defined in § 19-901 of this title;~~
 - ~~(viii) A freestanding medical facility, as defined in § 19-3A-01 of this title; and~~
 - ~~(ix) Any other health institution, service, or program for which this Part II of this subtitle requires a certificate of need.~~
- ~~(2) "Health care facility" does not include:~~
- ~~(i) A hospital or related institution that is operated, or is listed and certified, by the First Church of Christ Scientist, Boston, Massachusetts;~~
 - ~~(ii) For the purpose of providing an exemption from a certificate of need under § 19-120 of this subtitle, a facility to provide comprehensive care constructed by a provider of continuing care, as defined in § 10-401 of the Human Services Article, if:~~

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

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

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

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

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

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

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

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

~~19-347.1.~~

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

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

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

~~(B) THE SECRETARY SHALL ESTABLISH A REGISTRY THAT INCLUDES THE NAME AND SOCIAL SECURITY NUMBER OF ANY EMPLOYEE WHO HAS BEEN~~

~~TERMINATED FOR ABUSING OR NEGLECTING ANY OF THE FOLLOWING INDIVIDUALS IN A HEALTH CARE FACILITY:~~

- ~~(1) A SENIOR CITIZEN;~~
- ~~(2) A DISABLED INDIVIDUAL;~~
- ~~(3) A DEVELOPMENTALLY DISABLED INDIVIDUAL;~~
- ~~(4) AN INDIVIDUAL RECEIVING CARE BY AN IN-HOME AIDE; OR~~
- ~~(5) AN INDIVIDUAL INCAPABLE OF SELF-DEFENSE.~~

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

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

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

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

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

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

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

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

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

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

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

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

~~19-351.~~

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

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

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

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

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

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

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

(b) The Abuser Registry Workgroup shall:

(1) review the previous work of the Abuser Registry Workgroup and the alternative approach described in the January 14, 2013, letter from the Acting Executive Director of the Office of Health Care Quality to the sponsors of Senate Bill 316 and House Bill 382 of 2012;

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

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

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

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

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

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

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

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

Approved by the Governor, May 2, 2013.