

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 265 (Delegate Hubbard)
Health and Government Operations

University of Maryland Medical System Corporation - Public Information Act

This bill specifies that the University of Maryland Medical System Corporation (UMMS) is subject to the provisions of the Public Information Act.

Fiscal Summary

State Effect: The bill does not directly affect governmental operations or finances.

Local Effect: The bill does not directly affect governmental operations or finances.

Small Business Effect: None.

Analysis

Current Law: Generally, a custodian of a public record must permit inspection of the record at a reasonable time.

A custodian has to deny inspection of a public record or any part of a public record if (1) the public record is privileged or confidential by law or (2) the inspection would be contrary to a State statute, a federal statute or regulation, the Maryland Rules, or an order of a court of record. Denial of inspection is also mandatory for public records relating to adoption, welfare records, letters of reference, specified information about an individual maintained by a library, retirement records, certain police records, criminal charging documents, arrest warrants, personnel records, certain hospital and school records, records of certain State agencies, and certain recorded and surveillance images. Denial of inspection is required for information in a public record relating to certain medical, psychological, sociological, and financial information; trade secrets; certain personal information about public employees; information about the security of an information system; and licensing records.

Unless otherwise specified, if a custodian believes that inspection of a part of a public record by an applicant would be contrary to the public interest, the custodian may deny inspection to the applicant of that part of the record. Other permissible denials include information relating to documents that would not be available through discovery in a lawsuit, certain information about publicly administered tests, research projects conducted by an institution of the State or a political subdivision, real estate appraisals of property to be acquired by the State prior to its acquisition, certain information on inventions owned by State public higher educational institutions, and trade secrets or confidential information owned by the Maryland Technology Development Corporation.

UMMS is organized for charitable, scientific, and educational purposes; it is not a State agency, political subdivision, public body, public corporation, or municipal corporation. Statute specifies that UMMS is not subject to any provisions of law affecting only governmental or public entities.

The Court of Appeals recently held that, although UMMS is an “instrumentality of the State” for purposes of the Public Information Act, an express exemption from laws affecting only governmental or public entities located in the corporation’s enacting statute shields it from the public information law. *Napata v. University of Maryland Medical System Corp.*, 417 Md. 724, 12 A.3d 144 (2011).

Additional Comments: UMMS advises that, although the number of requests it is likely to receive under the bill cannot be reliably estimated, its expenditures may increase by more than \$300,000 annually under the bill. This estimate reflects the hiring of one attorney and two paralegals to handle requests, as well as substantial copying costs. UMMS also advises that having to comply with the Public Information Act would put UMMS at a competitive disadvantage because compliance with the Act is not required of other hospitals.

Additional Information

Prior Introductions: None.

Cross File: SB 644 (Senator Rosapepe) - Education, Health, and Environmental Affairs.

Information Source(s): Department of General Services, University of Maryland Medical System, Department of Legislative Services

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