

Department of Legislative Services  
Maryland General Assembly  
2016 Session

FISCAL AND POLICY NOTE  
Third Reader

House Bill 606  
Judiciary

(Delegate Dumais)

Judicial Proceedings

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Patient Safety Early Intervention Programs

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This bill authorizes a hospital or related institution, or an insurer, to establish a patient safety early intervention program to timely investigate a report of an adverse event in order to determine if harm to a patient occurred and if the care provided to the patient deviated from the accepted standard of care. Any service or support, including financial support, provided to a patient or the patient's family does not affect the right of the patient or the patient's family to fair and reasonable compensation for damages under State law. Additionally, any statements made by a party during discussions held in accordance with a program is inadmissible as evidence of an admission of liability or an admission against interest in a health care malpractice claim proceeding or in a civil action against a health care provider.

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Fiscal Summary

**State Effect:** The bill authorizes, but does not require, a hospital – including a hospital owned or operated by the State – to establish a patient safety early intervention program. The bill's other provisions are procedural in nature. State finances are not materially affected.

**Local Effect:** The bill authorizes, but does not require, a hospital – including a locally owned or operated hospital – to establish a patient safety early intervention program. The bill's other provisions are procedural in nature. Local government finances are not materially affected.

**Small Business Effect:** Minimal.

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## Analysis

**Bill Summary:** “Adverse event” means an unexpected occurrence that relates to a patient’s medical treatment but is not related to the natural course of a patient’s underlying illness, disease, or condition.

If a program determines that harm occurred to a patient and the care provided deviated from the accepted standard of care, the program must have a process to (1) obtain input about the adverse event from the patient or the patient’s family; (2) disclose to the patient and, if appropriate, the patient’s family the results and findings of the investigation; (3) apologize to the patient for the care provided; (4) advise the patient of the patient’s right to legal representation for discussions relating to fair and reasonable compensation; and (5) allow the patient, and if appropriate, the patient’s family, to participate in efforts to identify and implement system improvements to prevent a reoccurrence of the adverse event.

A hospital or related institution, or an insurer, that establishes a program must provide a written description of the program to the patient, and if appropriate, the patient’s family.

The bill applies only prospectively and does not apply to any cause of action arising before October 1, 2016.

**Current Law:** Maryland Rule 5-801 defines “statement” as (1) an oral or written assertion or (2) nonverbal conduct of a person, if it is intended by the person as an assertion.

Under the Courts and Judicial Proceedings Article, in a health care malpractice claim or a civil action against a health care provider, an expression of regret or apology made by or on behalf of the health care provider is inadmissible as evidence of an admission of liability or as evidence of an admission against interest. However, an admission of liability or fault that is part of or in addition to an expression of regret or apology is admissible as evidence of an admission of liability or as evidence of an admission against interest in such an action.

Under the Health-General Article, a “related institution” is an organized institution, environment, or home that maintains conditions or facilities and equipment to provide domiciliary, personal, or nursing care for two or more unrelated individuals (admitted or retained by the institution for overnight care) who are dependent on the administrator, operator, or proprietor for nursing care or the subsistence of daily living in a safe, sanitary, and healthful environment.

A hospital or related institution is required to (1) report an unexpected occurrence related to an individual’s medical treatment that results in death or serious disability that is not related to the natural course of the individual’s illness or underlying disease condition and

(2) submit the report to the Department of Health and Mental Hygiene (DHMH) within five days of the hospital's or related institution's knowledge of the occurrence. Additionally, a hospital or related institution must conduct a root cause analysis of the occurrence and submit it to DHMH within 60 days of knowing about the occurrence.

A hospital or related institution may, but need not, report an unexpected occurrence that does not result in death or serious disability.

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### **Additional Information**

**Prior Introductions:** HB 1265 of 2013, a similar bill, received a hearing in the House Judiciary Committee, but no further action was taken. Its cross file, SB 835, was referred to the Senate Rules Committee, but no further action was taken.

**Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts), Department of Health and Mental Hygiene, Maryland Health Care Alternative Dispute Resolution Office, Maryland Insurance Administration, Department of Legislative Services

**Fiscal Note History:** First Reader - February 16, 2016  
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