

SENATE BILL 733

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By: **Senators Lam, Carter, Hayes, Patterson, and Young**

Introduced and read first time: February 3, 2020

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Public Health – Care of Medically Fragile Individuals**
3 **(Channing’s Law)**

4 FOR the purpose of requiring the Office of Health Care Quality, on or before a certain date,
5 to establish a training program and a skills review and check for nurses who care for
6 medically fragile individuals in the homes of the medically fragile individuals;
7 requiring that a certain training program include certain components; establishing
8 certain qualifications for a certain nurse who teaches a certain training program;
9 requiring the Office to establish and collect a certain fee; authorizing the Office to
10 contract or coordinate with a third party for a certain purpose; requiring, beginning
11 on a certain date, a certain nurse to complete a certain training program before
12 beginning to provide certain care except under certain circumstances; requiring a
13 nurse who provides certain care to complete a certain skills review and check at a
14 certain frequency except under certain circumstances; requiring a certain nurse to
15 complete a certain skills review and check before providing certain care except under
16 certain circumstances; authorizing a residential service agency to authorize a certain
17 nurse to provide care for a medically fragile individual in the individual’s home only
18 if the nurse has complied with certain requirements; requiring a certain employer to
19 pay a certain fee; authorizing a certain employer to negotiate with a certain employee
20 on a certain reimbursement to be provided to the employer; requiring a hospital to
21 provide certain instruction to the parent or legal guardian of a medically fragile
22 individual before the hospital may discharge that individual; requiring a hospital
23 before discharging a medically fragile individual to require the medically fragile
24 individual’s parent or legal guardian to demonstrate that the parent or legal
25 guardian can successfully perform certain tasks and to inform the parent or legal
26 guardian of a certain matter; requiring the Office to conduct certain inspections and
27 enforce certain provisions of this Act; defining certain terms; requiring certain
28 nurses to complete a certain continuing education course on or before a certain date;
29 and generally relating to the care of medically fragile individuals.

30 BY repealing and reenacting, without amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Health – General
 2 Section 19–301(a) and (f) and 19–4A–01(a) and (e)
 3 Annotated Code of Maryland
 4 (2019 Replacement Volume)

5 BY adding to
 6 Article – Health – General
 7 Section 20–2001 through 20–2005 to be under the new subtitle “Subtitle 20. Nurse
 8 Training for the Care of Medically Fragile Individuals”
 9 Annotated Code of Maryland
 10 (2019 Replacement Volume)

11 Preamble

12 WHEREAS, Licensed practical nurses are the predominant source for pediatric
 13 home care; and

14 WHEREAS, There is a shortage of licensed practical nurses who meet the required
 15 criteria for Medicaid participation with medically fragile individuals; and

16 WHEREAS, Specialized training is required to address the complex medical needs
 17 of the home–care pediatric population; and

18 WHEREAS, Lack of participation by some parents in addressing the health care
 19 needs of their children breaks the chain in the continuity of care required to maintain
 20 optimal health conditions in the home–bound pediatric patient population and may result
 21 in rehospitalizations; and

22 WHEREAS, Frequent hospitalizations produce a lack of confidence in the reliability
 23 of work, leading the nurses to seek supplemental work; now, therefore,

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

26 **Article – Health – General**

27 19–301.

28 (a) In this subtitle the following words have the meanings indicated.

29 (f) “Hospital” means an institution that:

30 (1) Has a group of at least 5 physicians who are organized as a medical
 31 staff for the institution;

32 (2) Maintains facilities to provide, under the supervision of the medical
 33 staff, diagnostic and treatment services for 2 or more unrelated individuals; and

1 (3) Admits or retains the individuals for overnight care.

2 19-4A-01.

3 (a) In this subtitle the following words have the meanings indicated.

4 (e) (1) "Residential service agency" means any person that is engaged in a
5 nongovernmental business of employing or contracting with individuals to provide home
6 health care for compensation to an unrelated sick or disabled individual in the residence of
7 that individual.

8 (2) "Residential service agency" includes any agency that employs or
9 contracts with individuals directly for hire as home health care providers.

10 (3) "Residential service agency" does not include:

11 (i) A home health agency that is licensed under the provisions of
12 Subtitle 4 of this title;

13 (ii) A person required to be licensed as a home health agency under
14 the provisions of Subtitle 4 of this title;

15 (iii) A home-based hospice care program that is licensed under the
16 provisions of Subtitle 9 of this title;

17 (iv) A hospital that is licensed under the provisions of Subtitle 3 of
18 this title;

19 (v) A related institution that is licensed under the provisions of
20 Subtitle 3 of this title;

21 (vi) Personal care providers under the Medical Assistance Personal
22 Care Program;

23 (vii) Any person practicing a health occupation that the person is
24 authorized to practice under the Health Occupations Article;

25 (viii) A nursing referral service agency that is licensed under Subtitle
26 4B of this title;

27 (ix) A group of persons licensed under the same title of the Health
28 Occupations Article practicing as a business; or

29 (x) Residential rehabilitation services providers approved under
30 regulations adopted by the State mental health authority.

**SUBTITLE 20. NURSE TRAINING FOR THE CARE OF MEDICALLY FRAGILE
INDIVIDUALS.**

20-2001.

**(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
INDICATED.**

(B) "HOSPITAL" HAS THE MEANING STATED IN § 19-301 OF THIS ARTICLE.

**(C) "MEDICALLY FRAGILE INDIVIDUAL" MEANS AN INDIVIDUAL UNDER THE
AGE OF 21 YEARS WHO HAS A COMPLEX MEDICAL CONDITION THAT REQUIRES
PROFESSIONAL NURSING MONITORING OR PARENTAL SUPERVISION ON A 24-HOUR
BASIS TO PREVENT LIFE-THREATENING COMPLICATIONS OR DETERIORATION OF
THE INDIVIDUAL'S HEALTH.**

**(D) "RESIDENTIAL SERVICE AGENCY" HAS THE MEANING STATED IN §
19-4A-01 OF THIS ARTICLE.**

20-2002.

**(A) ON OR BEFORE DECEMBER 31, 2021, THE OFFICE OF HEALTH CARE
QUALITY SHALL ESTABLISH A TRAINING PROGRAM AND A SKILLS REVIEW AND
CHECK FOR NURSES WHO CARE FOR MEDICALLY FRAGILE INDIVIDUALS IN THE
HOMES OF THE MEDICALLY FRAGILE INDIVIDUALS.**

**(B) (1) THE TRAINING PROGRAM ESTABLISHED UNDER SUBSECTION (A)
OF THIS SECTION SHALL:**

**(I) REQUIRE A NURSE TO DEMONSTRATE THE SKILLS NEEDED
TO CARE FOR A MEDICALLY FRAGILE INDIVIDUAL, INCLUDING:**

- 1. CHANGING A GASTROSTOMY TUBE;**
- 2. CHANGING A TRACHEOSTOMY TUBE;**
- 3. PERFORMING CARDIOPULMONARY RESUSCITATION
(CPR);**
- 4. USING VENTILATOR EQUIPMENT; AND**
- 5. DEMONSTRATING ANY OTHER SKILL THAT THE
OFFICE DETERMINES IS NECESSARY FOR THE CARE OF A MEDICALLY FRAGILE**

1 INDIVIDUAL;

2 (II) INCLUDE A CLINICAL LEARNING COMPONENT; AND

3 (III) PROVIDE A MENTOR FOR EACH NURSE IN THE TRAINING
4 PROGRAM FOR A PERIOD OF TIME TO BE DETERMINED BY THE OFFICE.

5 (2) THE OFFICE SHALL PROVIDE A CERTIFICATE OF COMPLETION TO
6 EACH NURSE WHO SUCCESSFULLY COMPLETES THE TRAINING PROGRAM UNDER
7 THIS SUBSECTION.

8 (C) (1) THE TRAINING PROGRAM ESTABLISHED UNDER SUBSECTION (A)
9 OF THIS SECTION SHALL BE TAUGHT BY A REGISTERED NURSE WITH:

10 (I) AT A MINIMUM, A BACHELOR'S DEGREE IN NURSING;

11 (II) AT LEAST 5 YEARS OF PEDIATRIC HOME-CARE
12 EXPERIENCE, INCLUDING WITH MEDICALLY FRAGILE INDIVIDUALS; AND

13 (III) TRAINING ON EDUCATION AND CURRICULUM
14 DEVELOPMENT.

15 (2) IN SELECTING TEACHERS FOR THE TRAINING PROGRAM, THE
16 OFFICE SHALL GIVE A PREFERENCE TO NURSES WITH A MASTER'S DEGREE IN
17 NURSING.

18 (D) THE OFFICE SHALL ESTABLISH AND COLLECT A REASONABLE FEE FOR
19 EACH INDIVIDUAL WHO PARTICIPATES IN THE TRAINING AND THE SKILLS REVIEW
20 AND CHECK ESTABLISHED UNDER SUBSECTION (A) OF THIS SECTION.

21 (E) THE OFFICE MAY CONTRACT OR COORDINATE WITH A THIRD PARTY TO
22 MEET THE REQUIREMENTS OF THIS SECTION.

23 **20-2003.**

24 (A) BEGINNING JANUARY 1, 2022, A NURSE WHO BECOMES EMPLOYED TO
25 PROVIDE CARE TO A MEDICALLY FRAGILE INDIVIDUAL IN THE MEDICALLY FRAGILE
26 INDIVIDUAL'S HOME SHALL COMPLETE THE TRAINING PROGRAM ESTABLISHED
27 UNDER § 20-2002 OF THIS SUBTITLE BEFORE BEGINNING TO PROVIDE THE CARE
28 UNLESS THE NURSE HAS PREVIOUSLY PROVIDED CARE TO A MEDICALLY FRAGILE
29 INDIVIDUAL IN THE MEDICALLY FRAGILE INDIVIDUAL'S HOME.

30 (B) A NURSE WHO PROVIDES CARE TO A MEDICALLY FRAGILE INDIVIDUAL

1 IN THE MEDICALLY FRAGILE INDIVIDUAL'S HOME SHALL COMPLETE THE SKILLS
2 REVIEW AND CHECK ESTABLISHED UNDER § 20-2002 OF THIS SUBTITLE AT LEAST
3 ONCE EVERY 12-MONTH PERIOD FOR THE DURATION OF THE NURSE'S EMPLOYMENT
4 UNLESS THE NURSE COMPLETED THE TRAINING PROGRAM DURING THE 12-MONTH
5 PERIOD.

6 (C) IF A NURSE WHO IS EMPLOYED TO PROVIDE CARE TO A MEDICALLY
7 FRAGILE INDIVIDUAL IN THE MEDICALLY FRAGILE INDIVIDUAL'S HOME LEAVES THE
8 EMPLOYMENT, THE NURSE SHALL COMPLETE THE SKILLS REVIEW AND CHECK
9 ESTABLISHED UNDER § 20-2002 OF THIS SUBTITLE BEFORE PROVIDING CARE TO A
10 MEDICALLY FRAGILE INDIVIDUAL IN THE MEDICALLY FRAGILE INDIVIDUAL'S HOME
11 UNLESS LESS THAN 1 YEAR HAS ELAPSED SINCE THE DATE THE NURSE LAST
12 COMPLETED THE TRAINING PROGRAM OR SKILLS REVIEW AND CHECK.

13 (D) A RESIDENTIAL SERVICE AGENCY MAY AUTHORIZE A NURSE EMPLOYED
14 BY OR CONTRACTED WITH THE RESIDENTIAL SERVICE AGENCY TO PROVIDE CARE
15 FOR A MEDICALLY FRAGILE INDIVIDUAL IN THE MEDICALLY FRAGILE INDIVIDUAL'S
16 HOME ONLY IF THE NURSE HAS COMPLIED WITH THE REQUIREMENTS OF THIS
17 SECTION.

18 (E) (1) AN EMPLOYER, INCLUDING A RESIDENTIAL SERVICE AGENCY,
19 THAT EMPLOYS A NURSE TO PROVIDE CARE TO A MEDICALLY FRAGILE INDIVIDUAL
20 IN THE MEDICALLY FRAGILE INDIVIDUAL'S HOME SHALL PAY THE FEE ESTABLISHED
21 UNDER § 20-2002 OF THIS SUBTITLE FOR THE NURSE TO PARTICIPATE IN THE
22 TRAINING AND SKILLS REVIEW AND CHECK REQUIRED UNDER THIS SECTION.

23 (2) AN EMPLOYER MAY NEGOTIATE WITH AN EMPLOYEE ON THE
24 REIMBURSEMENT TO BE PROVIDED TO THE EMPLOYER BY THE EMPLOYEE FOR ANY
25 PART OF THE FEE PAID BY THE EMPLOYER UNDER PARAGRAPH (1) OF THIS
26 SUBSECTION.

27 20-2004.

28 (A) BEFORE A HOSPITAL MAY DISCHARGE A MEDICALLY FRAGILE
29 INDIVIDUAL INTO THE CARE OF A PARENT OR LEGAL GUARDIAN, THE HOSPITAL
30 SHALL PROVIDE INSTRUCTION TO THE MEDICALLY FRAGILE INDIVIDUAL'S PARENT
31 OR LEGAL GUARDIAN ON HOW TO PERFORM THE TASKS NECESSARY TO CARE FOR
32 THE MEDICALLY FRAGILE INDIVIDUAL AT HOME, INCLUDING, AS APPLICABLE, HOW
33 TO:

34 (1) CHANGE A GASTROSTOMY TUBE;

35 (2) CHANGE A TRACHEOSTOMY TUBE;

1 **(3) PERFORM CARDIOPULMONARY RESUSCITATION (CPR);**

2 **(4) USE VENTILATOR EQUIPMENT; AND**

3 **(5) PERFORM ANY OTHER TASK THAT THE HOSPITAL STAFF**
4 **DETERMINES IS NECESSARY FOR THE CARE OF THE MEDICALLY FRAGILE**
5 **INDIVIDUAL.**

6 **(B) BEFORE DISCHARGING A MEDICALLY FRAGILE INDIVIDUAL, A HOSPITAL**
7 **SHALL:**

8 **(1) REQUIRE THAT THE MEDICALLY FRAGILE INDIVIDUAL'S PARENT**
9 **OR LEGAL GUARDIAN DEMONSTRATE THAT THE PARENT OR LEGAL GUARDIAN CAN**
10 **SUCCESSFULLY PERFORM THE TASKS TAUGHT UNDER SUBSECTION (A) OF THIS**
11 **SECTION; AND**

12 **(2) INFORM THE MEDICALLY FRAGILE INDIVIDUAL'S PARENT OR**
13 **LEGAL GUARDIAN THAT THE PARENT OR LEGAL GUARDIAN MUST PARTICIPATE IN**
14 **THE CARE FOR THE INDIVIDUAL AT HOME IN ORDER FOR THE INDIVIDUAL TO HAVE**
15 **CONTINUITY OF CARE.**

16 **20-2005.**

17 **THE OFFICE OF HEALTH CARE QUALITY SHALL:**

18 **(1) INSPECT THE OPERATIONS OF EACH HOSPITAL AND RESIDENTIAL**
19 **SERVICE AGENCY TO ENSURE THAT THE HOSPITAL OR RESIDENTIAL SERVICE**
20 **AGENCY IS IN COMPLIANCE WITH THE REQUIREMENTS OF THIS SUBTITLE; AND**

21 **(2) ENFORCE THE PROVISIONS OF THIS SUBTITLE.**

22 SECTION 2. AND BE IT FURTHER ENACTED, That a nurse employed to provide
23 care to a medically fragile individual in a medically fragile individual's home on the
24 effective date of this Act shall complete the skills review and check established under §
25 20-2002 of the Health – General Article, as enacted by Section 1 of this Act, on or before
26 July 1, 2022.

27 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 2020.