

SENATE BILL 355

J1

3lr1820
CF HB 57

By: **Senators Pugh, Jones–Rodwell, and Madaleno**

Introduced and read first time: January 24, 2013

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Department of Health and Mental Hygiene – Health Care Facilities – Abuser**
3 **Registry**

4 FOR the purpose of requiring the Secretary of Health and Mental Hygiene to establish
5 a registry that includes certain information on certain employees of health care
6 facilities who provide services to certain individuals and who were terminated
7 for certain reasons; requiring the placement of a certain employee on the
8 registry under certain circumstances; authorizing certain health care facilities
9 to submit the names of former employees to the Secretary for inclusion in the
10 registry; authorizing certain health care facilities to have access to the registry;
11 prohibiting a health care facility from allowing an employee to access the
12 registry except under certain circumstances; authorizing a person responsible
13 for a certain individual to access the registry; requiring a health care facility to
14 adopt a certain procedure, provide certain employee training, and implement a
15 certain quality assurance program; prohibiting a health care facility from hiring
16 certain individuals; defining certain terms; and generally relating to a registry
17 of terminated employees of health care facilities.

18 BY repealing and reenacting, without amendments,
19 Article – Health – General
20 Section 19–114(d)
21 Annotated Code of Maryland
22 (2009 Replacement Volume and 2012 Supplement)

23 BY adding to
24 Article – Health – General
25 Section 19–347.1 and 19–351(e) and (f)
26 Annotated Code of Maryland
27 (2009 Replacement Volume and 2012 Supplement)

28 BY repealing and reenacting, with amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Health – General
2 Section 19–351(a)
3 Annotated Code of Maryland
4 (2009 Replacement Volume and 2012 Supplement)

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

7 **Article – Health – General**

8 19–114.

9 (d) (1) “Health care facility” means:

10 (i) A hospital, as defined in § 19–301 of this title;

11 (ii) A limited service hospital, as defined in § 19–301 of this
12 title;

13 (iii) A related institution, as defined in § 19–301 of this title;

14 (iv) An ambulatory surgical facility;

15 (v) An inpatient facility that is organized primarily to help in
16 the rehabilitation of disabled individuals, through an integrated program of medical
17 and other services provided under competent professional supervision;

18 (vi) A home health agency, as defined in § 19–401 of this title;

19 (vii) A hospice, as defined in § 19–901 of this title;

20 (viii) A freestanding medical facility, as defined in § 19–3A–01 of
21 this title; and

22 (ix) Any other health institution, service, or program for which
23 this Part II of this subtitle requires a certificate of need.

24 (2) “Health care facility” does not include:

25 (i) A hospital or related institution that is operated, or is listed
26 and certified, by the First Church of Christ Scientist, Boston, Massachusetts;

27 (ii) For the purpose of providing an exemption from a certificate
28 of need under § 19–120 of this subtitle, a facility to provide comprehensive care
29 constructed by a provider of continuing care, as defined in § 10–401 of the Human
30 Services Article, if:

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

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

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

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

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

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

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

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

24 **19–347.1.**

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

27 **(2) “APPROPRIATE AUTHORITY” INCLUDES CHILD PROTECTIVE**
28 **SERVICES, THE OFFICE OF HEALTH CARE QUALITY, THE DEPARTMENT, AND A**
29 **LAW ENFORCEMENT AGENCY.**

30 **(3) “HEALTH CARE FACILITY” HAS THE MEANING STATED IN**
31 **§ 19–114 OF THIS TITLE.**

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

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

3 (1) A SENIOR CITIZEN;

4 (2) A DISABLED INDIVIDUAL;

5 (3) A DEVELOPMENTALLY DISABLED INDIVIDUAL;

6 (4) AN INDIVIDUAL RECEIVING CARE BY AN IN-HOME AIDE; OR

7 (5) AN INDIVIDUAL INCAPABLE OF SELF-DEFENSE.

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

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

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

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

15 (4) THE EMPLOYEE HAS BEEN TERMINATED; AND

16 (5) NO CHARGES HAVE BEEN FILED.

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

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

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

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

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

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

6 19-351.

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

10 **(E) EACH HEALTH CARE FACILITY SHALL:**

11 **(1) ADOPT AN EMPLOYEE GRIEVANCE PROCEDURE;**

12 **(2) PROVIDE EMPLOYEE TRAINING ON THE PROPER HANDLING**
13 **OF CONFIDENTIAL INFORMATION; AND**

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

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

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 2013.