

SENATE BILL 732

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J3

2003 Regular Session
(3lr2610)

ENROLLED BILL
-- Finance/Health and Government Operations --

Introduced by **Senators Middleton, Dyson, and Teitelbaum**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Maryland Health Care Commission - Hospice Care ~~–Prohibition~~**

3 FOR the purpose of ~~prohibiting the Maryland Health Care Commission from granting~~
4 ~~a person that operates a hospice care program a statewide certificate of need or~~
5 ~~authority to operate the hospice care program statewide through a Commission~~
6 ~~ruling or determination; requiring the Commission to review certain rulings and~~
7 ~~determinations for a certain purpose providing that a person may only operate a~~
8 ~~general hospice care program under certain conditions; *restricting the*~~
9 ~~*jurisdictions in which a purchaser of a general hospice may provide home-based*~~
10 ~~*hospice services; prohibiting the Maryland Health Care Commission from*~~
11 ~~*issuing a certificate of need or a determination pursuant to an acquisition under*~~
12 ~~*certain circumstances; requiring the Secretary of Health and Mental Hygiene, in*~~
13 ~~*consultation with the Commission, to specify the jurisdictions in which a general*~~
14 ~~*hospice is authorized to provide home-based hospice services; prohibiting a*~~
15 ~~*general hospice from being licensed to provide home-based hospice services in a*~~
16 ~~*jurisdiction except under certain circumstances; providing for certain exceptions;*~~
17 ~~*requiring the Secretary, upon a certain notification, to append to a general*~~

1 hospice license additional jurisdiction in which a general hospice may provide
 2 home-base hospice services; requiring the Secretary to use certain data in
 3 making the initial specification of the jurisdictions in which a general hospice
 4 may provide home-based hospice services; requiring the Commission, in
 5 consultation with the Hospice Network of Maryland, to implement a certain
 6 annual survey; requiring the Commission to conduct a certain study and to begin
 7 a process for updating the State Health Plan's hospice chapter, in a certain
 8 manner; and generally relating to the Maryland Health Care Commission and
 9 hospice care programs.

10 BY repealing and reenacting, without amendments,
 11 Article - Health - General
 12 Section 19-101 and 19-120(k)(4)
 13 Annotated Code of Maryland
 14 (2000 Replacement Volume and 2002 Supplement)

15 BY repealing and reenacting, with amendments,
 16 Article - Health - General
 17 Section 19-120(k)(5)(ii) and 19-906
 18 Annotated Code of Maryland
 19 (2000 Replacement Volume and 2002 Supplement)

20 BY adding to
 21 Article - Health - General
 22 Section 19-120(o)
 23 Annotated Code of Maryland
 24 (2000 Replacement Volume and 2002 Supplement)

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

27 **Article - Health - General**

28 19-101.

29 In this subtitle, "Commission" means the Maryland Health Care Commission.

30 19-120.

31 (k) (4) A certificate of need is required before a person acquires a health care
 32 facility if a certificate of need would be required under paragraph (1) of this subsection
 33 for the acquisition by or on behalf of the health care facility.

34 (5) This subsection does not apply to:

35 (ii) Acquisition of a health care facility if, at least 30 days before
 36 making the contractual arrangement to acquire the facility, written notice of the intent

1 *to make the arrangement is filed with the Commission and the Commission does not*
 2 *find, within 30 days after the Commission receives notice, that the health services or*
 3 *bed capacity of the facility will be changed, PROVIDED THAT, FOR A MERGER WITH OR*
 4 *ACQUISITION OF AN EXISTING GENERAL HOSPICE, THE PURCHASER OF THE*
 5 *GENERAL HOSPICE MAY ONLY ACQUIRE THE AUTHORITY TO PROVIDE HOME-BASED*
 6 *HOSPICE SERVICES IN JURISDICTIONS IN WHICH THE SELLER OF THE GENERAL*
 7 *HOSPICE IS LICENSED TO PROVIDE HOME-BASED HOSPICE SERVICES;*

8 (O) THE COMMISSION MAY NOT ISSUE A CERTIFICATE OF NEED OR A
 9 DETERMINATION WITH RESPECT TO AN ACQUISITION THAT AUTHORIZES A
 10 GENERAL HOSPICE TO PROVIDE HOME-BASED HOSPICE SERVICES ON A STATEWIDE
 11 BASIS.

12 19-906.

13 (a) To qualify for a license, an applicant and the hospice care program and its
 14 medical director shall meet the requirements of this section.

15 (b) An applicant who is an individual, and any individual who is applying on
 16 behalf of a corporation, association, or government agency shall be:

17 (1) At least 18 years old; and

18 (2) Of reputable and responsible character.

19 (c) (1) Except for a limited licensee, the applicant shall have a certificate of
 20 need, as required under Subtitle 1 of this title, for the hospice care program to be
 21 operated.

22 ~~(2) THE COMMISSION MAY NOT GRANT A PERSON THAT OPERATES A~~
 23 ~~HOSPICE CARE PROGRAM:~~

24 ~~(I) A STATEWIDE CERTIFICATE OF NEED; OR~~

25 ~~(II) AUTHORITY TO OPERATE THE HOSPICE CARE PROGRAM~~
 26 ~~STATEWIDE THROUGH A COMMISSION RULING OR DETERMINATION.~~

27 ~~(3) A PERSON WHO ACQUIRES OR PURCHASES A GENERAL HOSPICE~~
 28 ~~CARE PROGRAM AND WHO IS AUTHORIZED BY THE COMMISSION TO OPERATE THE~~
 29 ~~PROGRAM ON A STATEWIDE BASIS PRIOR TO MARCH 1, 2003, MAY ONLY SERVE:~~

30 ~~(I) RESIDENTS OF ANY JURISDICTION IN WHICH SERVICES WERE~~
 31 ~~PROVIDED ON OR BEFORE DECEMBER 1, 2001; AND~~

32 ~~(II) RESIDENTS OF OTHER JURISDICTIONS WHO ARE DISCHARGED,~~
 33 ~~IMMEDIATELY PRIOR TO THE DELIVERY OF HOSPICE CARE SERVICES, FROM THE~~
 34 ~~HEALTH CARE FACILITY THAT ORIGINALLY OPERATED THE GENERAL HOSPICE CARE~~
 35 ~~PROGRAM.~~

1 ~~(4) A PERSON WHO ACQUIRES OR PURCHASES A GENERAL HOSPICE~~
 2 ~~CARE PROGRAM THAT WAS AUTHORIZED BY THE COMMISSION TO OPERATE ON A~~
 3 ~~STATEWIDE BASIS PRIOR TO MARCH 1, 2003, MAY ONLY SERVE:~~

4 ~~(I) RESIDENTS OF ANY JURISDICTION IN WHICH SERVICES WERE~~
 5 ~~PROVIDED ON OR BEFORE DECEMBER 1, 2001; AND~~

6 ~~(II) RESIDENTS OF OTHER JURISDICTIONS WHO ARE DISCHARGED,~~
 7 ~~IMMEDIATELY PRIOR TO THE DELIVERY OF HOSPICE CARE SERVICES, FROM THE~~
 8 ~~HEALTH CARE FACILITY THAT ORIGINALLY OPERATED THE GENERAL HOSPICE CARE~~
 9 ~~PROGRAM.~~

10 (2) THE SECRETARY, IN CONSULTATION WITH THE MARYLAND HEALTH
 11 CARE COMMISSION, SHALL SPECIFY THOSE JURISDICTIONS IN WHICH A GENERAL
 12 HOSPICE IS AUTHORIZED TO PROVIDE HOME-BASED HOSPICE SERVICES.

13 (3) A GENERAL HOSPICE MAY NOT BE LICENSED TO PROVIDE
 14 HOME-BASED HOSPICE SERVICES IN A JURISDICTION UNLESS THE GENERAL
 15 HOSPICE OR AN ENTITY ACQUIRED BY THE GENERAL HOSPICE PROVIDED
 16 HOME-BASED HOSPICE SERVICES TO A PATIENT IN THE JURISDICTION DURING THE
 17 12-MONTH PERIOD ENDING DECEMBER 31, 2001.

18 (4) NOTWITHSTANDING PARAGRAPH (3) OF THIS SUBSECTION:

19 (I) A GENERAL HOSPICE MAY PROVIDE HOME-BASED HOSPICE
 20 SERVICES TO A SPECIFIC PATIENT OUTSIDE OF THE JURISDICTIONS IN WHICH THE
 21 HOSPICE IS LICENSED IF THE MARYLAND HEALTH CARE COMMISSION APPROVES
 22 THE SERVICE PROVISION; AND

23 (II) A GENERAL HOSPICE THAT IS A HOSPITAL-BASED HOSPICE OR
 24 THAT HAD AN AFFILIATION AGREEMENT BEFORE APRIL 5, 2003 WITH A HEALTH
 25 CARE FACILITY OR HEALTH CARE SYSTEM MAY SERVE PATIENTS IMMEDIATELY
 26 UPON DISCHARGE FROM THE HOSPITAL, HEALTH CARE FACILITY, OR HEALTH CARE
 27 SYSTEM, REGARDLESS OF THE JURISDICTION IN WHICH THE PATIENT RESIDES.

28 (5) UPON THE NOTIFICATION BY THE MARYLAND HEALTH CARE
 29 COMMISSION OF THE ISSUANCE OF A CERTIFICATE OF NEED TO A GENERAL
 30 HOSPICE, THE SECRETARY SHALL APPEND TO THE GENERAL HOSPICE LICENSE ANY
 31 ADDITIONAL JURISDICTIONS IN WHICH THE GENERAL HOSPICE MAY PROVIDE
 32 HOME-BASED HOSPICE SERVICES.

33 ~~(3)~~ ~~(5)~~ (6) The hospice care program to be operated and its medical
 34 director shall meet the requirements that the Secretary adopts under this subtitle.

35 SECTION 2. AND BE IT FURTHER ENACTED, That:

36 (a) The Secretary of Health and Mental Hygiene, in making the initial
 37 specification of the jurisdictions in which a general hospice may provide home-based
 38 hospice services, shall use the data provided by the Maryland Health Care
 39 Commission from the annual hospice survey for calendar year 2001.

1 **(b)** For the reporting period beginning January 1, 2003, the Maryland Health
2 Care Commission, in consultation with the Hospice Network of Maryland, shall
3 implement an annual survey of Maryland hospice programs to collect data on the
4 characteristics and utilization of hospice services.

5 SECTION 3. AND BE IT FURTHER ENACTED, That, on or before January 1,
6 2004, the Maryland Health Care Commission shall:

7 **(1)** conduct a study to clarify the existing status of certificates of need or
8 determinations for hospice services in Maryland and, in accordance with § 2-1246 of
9 the State Government Article, report the results of its study to the Senate Finance
10 Committee and the House Health and Government Operations Committee; and

11 **(2)** begin a process for updating the State health plan's hospice chapter,
12 using data the Commission independently collects:

13 **(i)** without relying on or delegating the collection of data to any
14 nongovernmental entity; and

15 **(ii)** by soliciting input from hospice providers, experts, clinicians,
16 and hospice volunteers.

17 ~~SECTION 2. AND BE IT FURTHER ENACTED, That the Maryland Health~~
18 ~~Care Commission shall review each of its rulings and determinations that, prior to~~
19 ~~the effective date of this Act, granted authority to operate a statewide hospice care~~
20 ~~program to ensure that the program continues to serve only those individuals who,~~
21 ~~immediately prior to entering the hospice care program, were receiving other care~~
22 ~~from a facility directly affiliated with the hospice care provider or within the hospice~~
23 ~~care provider's network.~~

24 ~~SECTION 3. 4. AND BE IT FURTHER ENACTED, That this Act shall take~~
25 ~~effect ~~October~~ July 1, 2003.~~