
By: **Delegate Hurson**

Introduced and read first time: March 8, 2004

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Health Care - Adverse Patient Safety Events - Reporting and Attorney's Fees**
3 **for Civil Action**

4 FOR the purpose of requiring the Secretary of Health and Mental Hygiene to require
5 certain health care facilities to establish a patient safety program; authorizing
6 the Secretary to adopt regulations to carry out certain provisions; providing for
7 the components of the patient safety program; providing for certain penalties;
8 requiring a certain court to order a certain losing party to pay a certain
9 prevailing party's reasonable attorney's fees and costs in an action brought by a
10 physician against a certain medical review committee or member of a certain
11 medical review committee; requiring the State Board of Physicians to establish
12 a near-miss and adverse event identification and reporting process; providing
13 for the components of the process; requiring a certain physician to report certain
14 near-miss and adverse events to the Board; defining certain terms; and
15 generally relating to the reporting of and attorney's fees for a civil action
16 regarding adverse patient safety events related to health care.

17 BY adding to
18 Article - Health - General
19 Section 19-2101 through 19-2104 to be under the new subtitle "Subtitle 21.
20 Patient Safety Program"
21 Annotated Code of Maryland
22 (2000 Replacement Volume and 2003 Supplement)

23 BY adding to
24 Article - Health Occupations
25 Section 1-403 and 14-508
26 Annotated Code of Maryland
27 (2000 Replacement Volume and 2003 Supplement)

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

1 **Article - Health - General**

2 SUBTITLE 21. PATIENT SAFETY PROGRAM.

3 19-2101.

4 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
5 INDICATED.6 (B) "ADVERSE EVENT" MEANS AN UNEXPECTED OCCURRENCE RELATED TO
7 AN INDIVIDUAL'S MEDICAL TREATMENT AND NOT RELATED TO THE NATURAL
8 COURSE OF THE INDIVIDUAL'S ILLNESS OR UNDERLYING DISEASE CONDITION.9 (C) "HEALTH CARE FACILITY" HAS THE MEANING STATED IN § 19-114 OF THIS
10 TITLE.11 (D) "NEAR-MISS" MEANS AN OCCURRENCE THAT COULD HAVE RESULTED IN
12 AN ADVERSE EVENT BUT DID NOT, EITHER BY CHANCE OR THROUGH TIMELY
13 INTERVENTION.14 (E) "PATIENT SAFETY PROGRAM" MEANS AN ONGOING, PROACTIVE PROGRAM
15 FOR IDENTIFYING RISKS TO PATIENT SAFETY AND REDUCING MEDICAL ERRORS.16 (F) "ROOT CAUSE ANALYSIS" MEANS A PROCESS CONDUCTED BY A MEDICAL
17 REVIEW COMMITTEE, AS DEFINED IN § 1-401 OF THE HEALTH OCCUPATIONS
18 ARTICLE, TO IDENTIFY THE BASIC AND CONTRIBUTING CAUSAL FACTORS THAT
19 UNDERLIE VARIATIONS IN THE PERFORMANCE OF HEALTH CARE PROVIDERS
20 ASSOCIATED WITH ADVERSE EVENTS OR NEAR-MISSES.21 (G) "SERIOUS DISABILITY" MEANS A PHYSICAL OR MENTAL IMPAIRMENT
22 THAT SUBSTANTIALLY LIMITS ONE OR MORE OF THE MAJOR LIFE ACTIVITIES OF AN
23 INDIVIDUAL LASTING MORE THAN 7 DAYS OR STILL IS PRESENT AT THE TIME OF
24 DISCHARGE.

25 19-2102.

26 (A) THE SECRETARY SHALL REQUIRE EACH HEALTH CARE FACILITY
27 LICENSED AND REGULATED BY THE DEPARTMENT TO ESTABLISH A PATIENT SAFETY
28 PROGRAM.29 (B) THE SECRETARY MAY ADOPT REGULATIONS TO CARRY OUT THE
30 PROVISIONS OF THIS SUBTITLE.

31 19-2103.

32 THE PATIENT SAFETY PROGRAM ESTABLISHED UNDER § 19-2102 OF THIS
33 SUBTITLE SHALL INCLUDE THE FOLLOWING COMPONENTS:

34 (1) A DESIGNATED PATIENT SAFETY COORDINATOR;

- 1 (2) PATIENT SAFETY EDUCATION PROGRAMS FOR ALL STAFF;
- 2 (3) A PROCESS TO REVIEW AND EVALUATE THE EFFECTIVENESS OF THE
3 HEALTH CARE FACILITY'S PATIENT SAFETY PROGRAM;
- 4 (4) A WELL-DEFINED PROCESS FOR IDENTIFYING AND REPORTING
5 NEAR-MISSES AND ADVERSE EVENTS;
- 6 (5) PROCEDURES FOR DETERMINING WHICH REPORTED NEAR-MISSES
7 OR ADVERSE EVENTS REQUIRE A ROOT CAUSE ANALYSIS;
- 8 (6) PROCEDURES FOR CONDUCTING A ROOT CAUSE ANALYSIS
9 INVESTIGATION;
- 10 (7) SPECIFIC TIME FRAMES FOR THE REPORTING TO THE DEPARTMENT
11 OF NEAR-MISSES OR ADVERSE EVENTS THAT CAUSED A SERIOUS DISABILITY;
- 12 (8) A DOCUMENTATION AND RECORD KEEPING SYSTEM;
- 13 (9) AN INFORMATION SHARING SYSTEM BETWEEN APPROPRIATE
14 INTERNAL AND EXTERNAL ENTITIES; AND
- 15 (10) A PATIENT COMPLAINT PROGRAM.

16 19-2104.

17 (A) THE SECRETARY MAY, FOR A VIOLATION OF ANY PROVISION OF THIS
18 SUBTITLE OR ANY REGULATION ADOPTED UNDER THIS SUBTITLE, IMPOSE ON THE
19 HEALTH CARE FACILITY THE FOLLOWING PENALTIES:

- 20 (1) REVOCATION OF THE HEALTH CARE FACILITY'S LICENSE; OR
- 21 (2) A FINE OF \$500 FOR EACH DAY THAT THE HEALTH CARE FACILITY IS
22 IN VIOLATION OF THIS SUBTITLE.

23 (B) THE SECRETARY SHALL ADOPT REGULATIONS TO PROVIDE STANDARDS
24 FOR THE IMPOSITION OF AN ADMINISTRATIVE PENALTY UNDER ITEM (A)(2) OF THIS
25 SUBSECTION.

26 **Article - Health Occupations**

27 1-403.

28 THE COURT SHALL ORDER THE LOSING PARTY TO PAY THE PREVAILING
29 PARTY'S REASONABLE ATTORNEY'S FEES AND COSTS IN AN ACTION BROUGHT BY A
30 PHYSICIAN AGAINST A HOSPITAL MEDICAL REVIEW COMMITTEE OR A MEMBER OF A
31 HOSPITAL MEDICAL REVIEW COMMITTEE.

1 14-508.

2 (A) (1) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANINGS
3 INDICATED.

4 (2) "ADVERSE EVENT" MEANS AN UNEXPECTED OCCURRENCE RELATED
5 TO AN INDIVIDUAL'S MEDICAL TREATMENT AND NOT RELATED TO THE NATURAL
6 COURSE OF THE INDIVIDUAL'S ILLNESS OR UNDERLYING DISEASE CONDITION.

7 (3) "NEAR-MISS" MEANS AN OCCURRENCE THAT COULD HAVE
8 RESULTED IN AN ADVERSE EVENT BUT DID NOT, EITHER BY CHANCE OR THROUGH
9 TIMELY INTERVENTION.

10 (B) THE BOARD SHALL ESTABLISH A PROCESS FOR IDENTIFYING AND
11 REPORTING NEAR-MISSES AND ADVERSE EVENTS THAT INCLUDES THE FOLLOWING
12 COMPONENTS:

13 (1) A LIST THAT DESCRIBES EXAMPLES OF NEAR-MISS AND ADVERSE
14 EVENTS THAT REQUIRE REPORTING;

15 (2) A DESIGNATED REPRESENTATIVE TO WHOM A NEAR-MISS OR
16 ADVERSE EVENT SHALL BE REPORTED;

17 (3) A TIME FRAME WITHIN WHICH THE NEAR-MISS OR ADVERSE EVENT
18 SHALL BE REPORTED;

19 (4) A PROCEDURE TO COORDINATE RECEIPT OF ALL NEAR-MISSES AND
20 ADVERSE EVENTS AND TO PRIORITIZE THESE EVENTS BASED ON THE LEVEL OF
21 DISABILITY OR POTENTIAL DISABILITY; AND

22 (5) A PROCEDURE TO ASSIGN AN APPROPRIATE RESPONSE TO HIGH
23 PRIORITY ADVERSE EVENTS, OTHER ADVERSE EVENTS, AND NEAR-MISSES.

24 (C) A PHYSICIAN LICENSED UNDER THIS SUBTITLE WHO IS AWARE OF A
25 NEAR-MISS OR ADVERSE EVENT SHALL REPORT THE NEAR-MISS OR ADVERSE EVENT
26 TO THE BOARD.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 2004.