

Chapter 587

(House Bill 286)

AN ACT concerning

Hospitals and Freestanding Ambulatory Care Facilities – ~~Practitioner~~ Practitioner Performance Evaluation

FOR the purpose of requiring hospitals and freestanding ambulatory care facilities, as a condition of licensure, to establish a certain practitioner performance evaluation process ~~and~~; requiring hospitals to analyze the results of the process; requiring the practitioner performance evaluation process to include a certain review of care; requiring hospitals and freestanding ambulatory care facilities to take into account the results of the practitioner performance evaluation process for a member of the medical staff in a certain reappointment process; establishing a certain fine for certain noncompliance; ~~establishing requirements for practitioner performance evaluation procedures in freestanding ambulatory care facilities~~; making certain stylistic changes; and generally relating to practitioner performance evaluation in hospitals and freestanding ambulatory care facilities.

BY repealing and reenacting, without amendments,
Article – Health – General
Section 19–319(a) and 19–3B–02(a)
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 19–319(e)
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)
(As enacted by Chapters 90 and 91 of the Acts of the General Assembly of 2009)

BY repealing and reenacting, with amendments,
Article – Health – General
Section 19–3B–03(a)
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

BY adding to
Article – Health – General
Section 19–319(i)
Annotated Code of Maryland

(2009 Replacement Volume and 2010 Supplement)

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

Article – Health – General

19–319.

(a) To qualify for a license, an applicant and the hospital or related institution to be operated shall meet the requirements of this section.

(e) (1) In this subsection, “uniform standard credentialing form” means:

(i) The form designated by the Secretary through regulation for credentialing physicians who seek to be employed by or have staff privileges at a hospital; or

(ii) The uniform credentialing form that the Insurance Commissioner designates under § 15–112.1 of the Insurance Article.

(2) As a condition of licensure, each hospital shall:

(i) Establish a credentialing process for the physicians who are employed by or who have staff privileges at the hospital; and

(ii) Use the uniform standard credentialing form as the initial application of a physician seeking to be credentialed.

(3) Use of the uniform standard credentialing form does not preclude a hospital from requiring supplemental or additional information as part of the hospital’s credentialing process.

(4) The Secretary shall, by regulation and in consultation with hospitals, physicians, interested community and advocacy groups, and representatives of the Maryland Defense Bar and Plaintiffs’ Bar, establish minimum standards for a credentialing process which shall include:

(i) A formal written appointment process documenting the physician’s education, clinical expertise, licensure history, insurance history, medical history, claims history, and professional experience.

(ii) A requirement that an initial appointment to staff not be complete until the physician has successfully completed a probationary period.

(iii) A formal, written reappointment process to be conducted at least every 2 years. The reappointment process shall document the physician's pattern of performance by analyzing [claims filed against the physician, data dealing with utilization, quality, and risk, a review of clinical skills, adherence to hospital bylaws, policies and procedures, compliance with continuing education requirements, and mental and physical status]:

1. CLAIMS FILED AGAINST THE PHYSICIAN;
2. DATA DEALING WITH UTILIZATION, QUALITY, AND RISK;
3. CLINICAL SKILLS;
4. ADHERENCE TO HOSPITAL BYLAWS, POLICIES, AND PROCEDURES;
5. COMPLIANCE WITH CONTINUING EDUCATION REQUIREMENTS;
6. MENTAL AND PHYSICAL STATUS; AND
7. THE RESULTS OF THE PRACTITIONER PERFORMANCE EVALUATION PROCESS UNDER SUBSECTION (I) OF THIS SECTION.

(5) If requested by the Department, a hospital shall provide documentation that, prior to employing or granting privileges to a physician, the hospital has complied with the requirements of this subsection and that, prior to renewing employment or privileges, the hospital has complied with the requirements of this subsection.

(6) If a hospital fails to establish or maintain a credentialing process required under this subsection, the Secretary may impose the following penalties:

- (i) Delicensure of the hospital; or
- (ii) \$500 per day for each day the violation continues.

(I) (1) AS A CONDITION OF LICENSURE, EACH HOSPITAL SHALL ESTABLISH A PRACTITIONER PERFORMANCE EVALUATION PROCESS THAT OBJECTIVELY EVALUATES THE PERFORMANCE OF EACH MEMBER OF THE MEDICAL STAFF AT THE HOSPITAL.

(2) THE PRACTITIONER PERFORMANCE EVALUATION PROCESS SHALL INCLUDE A REVIEW OF CARE PROVIDED TO PATIENTS AT THE HOSPITAL BY THE MEMBERS OF THE MEDICAL STAFF.

(3) THE REVIEW OF CARE SHALL:

(I) BE UNDERTAKEN FOR CASES CHOSEN AT RANDOM AND FOR CASES WITH UNEXPECTED ADVERSE OUTCOMES;

(II) BE BASED ON OBJECTIVE REVIEW STANDARDS;

(III) INCLUDE A REVIEW OF THE APPROPRIATENESS OF THE PLAN OF CARE FOR THE PATIENT, PARTICULARLY ANY MEDICAL PROCEDURES PERFORMED ON THE PATIENT, IN RELATION TO THE PATIENT'S CONDITION; AND

(IV) BE CONDUCTED BY MEMBERS OF THE MEDICAL STAFF OR, AT THE DISCRETION OF THE HOSPITAL, EXTERNAL REVIEWERS, WHO:

1. ARE OF THE SAME SPECIALTY AS THE MEMBER OF THE MEDICAL STAFF UNDER REVIEW;

2. HAVE BEEN TRAINED TO PERFORM PRACTITIONER PERFORMANCE EVALUATION; AND

3. ARE NOT OTHERWISE ASSOCIATED WITH THE CASE UNDER REVIEW.

(4) A HOSPITAL SHALL TAKE INTO ACCOUNT THE RESULTS OF THE PRACTITIONER PERFORMANCE EVALUATION PROCESS FOR A MEMBER OF THE MEDICAL STAFF IN THE REAPPOINTMENT PROCESS ESTABLISHED UNDER SUBSECTION (E) OF THIS SECTION.

(5) IF A HOSPITAL FAILS TO COMPLY WITH THE REQUIREMENTS OF THIS SUBSECTION, THE SECRETARY MAY IMPOSE A FINE OF UP TO \$500 PER DAY PER VIOLATION FOR EACH DAY A VIOLATION CONTINUES.

19-3B-02.

(a) A freestanding ambulatory care facility may not operate in the State unless the Secretary has granted the facility a license.

19-3B-03.

(a) (1) After consultation with representatives of payors, health care practitioners, and ambulatory care facilities, the Secretary shall by regulation establish:

[(1)] (I) Procedures to implement the provisions of this subtitle; and

[(2)] (II) Standards to ensure quality of care and patient safety that shall include:

[(i)] 1. Procedures for credentialing and [peer review] **PRACTITIONER PERFORMANCE EVALUATION;**

[(ii)] 2. Qualifications of health care practitioners and support personnel;

[(iii)] 3. Procedures to be followed in the event of an emergency, including a requirement that in the event of an emergency the patient be transported to the nearest appropriate emergency care facility;

[(iv)] 4. Procedures for quality control of any biomedical equipment;

[(v)] 5. Procedures for postoperative recovery;

[(vi)] 6. Procedures for discharge; and

[(vii)] 7. Any other procedures that the Secretary considers necessary for quality of care and patient safety.

(2) THE PROCEDURES FOR PRACTITIONER PERFORMANCE EVALUATION REQUIRED UNDER PARAGRAPH (1)(II)1 OF THIS SUBSECTION SHALL ~~BE SUBSTANTIALLY THE SAME AS THE PROCEDURES FOR PRACTITIONER PERFORMANCE EVALUATION REQUIRED FOR HOSPITALS UNDER § 19 319 OF THIS TITLE~~ INCLUDE A REVIEW OF CARE PROVIDED TO PATIENTS AT THE FREESTANDING AMBULATORY CARE FACILITY BY MEMBERS OF THE MEDICAL STAFF.

(3) THE REVIEW OF CARE SHALL:

(I) BE UNDERTAKEN FOR CASES CHOSEN AT RANDOM AND FOR CASES WITH UNEXPECTED ADVERSE OUTCOMES;

(II) BE BASED ON OBJECTIVE REVIEW STANDARDS;

(III) INCLUDE A REVIEW OF THE APPROPRIATENESS OF THE PLAN OF CARE FOR THE PATIENT, PARTICULARLY ANY MEDICAL PROCEDURES PERFORMED ON THE PATIENT, IN RELATION TO THE PATIENT'S CONDITION; AND

(IV) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, BE CONDUCTED BY AT LEAST TWO MEMBERS OF THE MEDICAL STAFF WHO:

1. ~~ARE~~ AS APPROPRIATE, ARE OF THE SAME SPECIALTY AS THE MEMBER OF THE MEDICAL STAFF UNDER REVIEW; AND

2. HAVE BEEN TRAINED IN THE FREESTANDING AMBULATORY CARE FACILITY'S POLICIES AND PROCEDURES REGARDING PRACTITIONER PERFORMANCE EVALUATION.

(4) A REVIEW OF THE CARE PROVIDED BY A MEMBER OF THE MEDICAL STAFF WHO IS A SOLO PRACTITIONER ~~OR WHO PRACTICES IN A SINGLE PRACTICE OWNED FREESTANDING AMBULATORY CARE FACILITY~~ SHALL BE CONDUCTED BY AN EXTERNAL REVIEWER.

(5) A FREESTANDING AMBULATORY CARE FACILITY SHALL TAKE INTO ACCOUNT THE RESULTS OF THE PRACTITIONER PERFORMANCE EVALUATION PROCESS FOR A MEMBER OF THE MEDICAL STAFF IN THE REAPPOINTMENT PROCESS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, May 19, 2011.