

# SENATE BILL 316

J3, O2, O3

2lr2094  
CF HB 382

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By: **Senators Pugh, Benson, Forehand, Jones-Rodwell, King, Klausmeier,  
Manno, Montgomery, Muse, Peters, and Stone**

Introduced and read first time: January 27, 2012

Assigned to: Finance

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 25, 2012

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

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

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 have access to the registry; prohibiting a health care facility from allowing an~~  
10 ~~employee to access the registry except under certain circumstances; authorizing~~  
11 ~~a person responsible for a certain individual to access the registry; requiring a~~  
12 ~~health care facility to adopt a certain procedure; prohibiting a health care~~  
13 ~~facility from hiring certain individuals; defining certain terms; and generally~~  
14 ~~relating to a registry of terminated employees of health care facilities~~  
15 Department of Health and Mental Hygiene to convene a workgroup to examine  
16 certain issues relating to health care facilities and abuser registries; requiring  
17 the Department to submit a certain report to certain committees of the General  
18 Assembly on or before a certain date; and generally relating to health facilities  
19 and abuser registries.

20 ~~BY repealing and reenacting, without amendments,~~  
21 ~~Article – Health – General~~  
22 ~~Section 19-114(d)~~  
23 ~~Annotated Code of Maryland~~

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 ~~(2009 Replacement Volume and 2011 Supplement)~~

2 ~~BY adding to~~

3 ~~Article — Health — General~~

4 ~~Section 19-347.1 and 19-351(c) and (f)~~

5 ~~Annotated Code of Maryland~~

6 ~~(2009 Replacement Volume and 2011 Supplement)~~

7 ~~BY repealing and reenacting, with amendments,~~

8 ~~Article — Health — General~~

9 ~~Section 19-351(a)~~

10 ~~Annotated Code of Maryland~~

11 ~~(2009 Replacement Volume and 2011 Supplement)~~

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

14 ~~Article — Health — General~~

15 ~~19-114.~~

16 ~~(d) (1) “Health care facility” means:~~

17 ~~(i) A hospital, as defined in § 19-301 of this title;~~

18 ~~(ii) A limited service hospital, as defined in § 19-301 of this~~  
19 ~~title;~~

20 ~~(iii) A related institution, as defined in § 19-301 of this title;~~

21 ~~(iv) An ambulatory surgical facility;~~

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

25 ~~(vi) A home health agency, as defined in § 19-401 of this title;~~

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

27 ~~(viii) A freestanding medical facility, as defined in § 19-3A-01 of~~  
28 ~~this title; and~~

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

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

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

3                   (ii) ~~For the purpose of providing an exemption from a certificate~~  
4 ~~of need under § 19-120 of this subtitle, a facility to provide comprehensive care~~  
5 ~~constructed by a provider of continuing care, as defined in § 10-401 of the Human~~  
6 ~~Services Article, if:~~

7                   1. ~~Except as provided under § 19-123 of this subtitle,~~  
8 ~~the facility is for the exclusive use of the provider's subscribers who have executed~~  
9 ~~continuing care agreements and paid entrance fees that are at least equal to the~~  
10 ~~lowest entrance fee charged for an independent living unit or an assisted living unit~~  
11 ~~before entering the continuing care community, regardless of the level of care needed~~  
12 ~~by the subscribers at the time of admission;~~

13                   2. ~~The facility is located on the campus of the continuing~~  
14 ~~care community; and~~

15                   3. ~~The number of comprehensive care nursing beds in~~  
16 ~~the community does not exceed:~~

17                   A. ~~24 percent of the number of independent living units~~  
18 ~~in a community having less than 300 independent living units; or~~

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

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

24                   (iv) ~~Except for kidney transplant services or programs, the~~  
25 ~~kidney disease treatment stations and services provided by or on behalf of a hospital~~  
26 ~~or related institution; or~~

27                   (v) ~~The office of one or more individuals licensed to practice~~  
28 ~~dentistry under Title 4 of the Health Occupations Article, for the purposes of~~  
29 ~~practicing dentistry.~~

30 ~~19-347.1.~~

31                   (A) (1) ~~IN THIS SECTION THE FOLLOWING WORDS HAVE THE~~  
32 ~~MEANINGS INDICATED.~~

1           ~~(2) "APPROPRIATE AUTHORITY" INCLUDES CHILD PROTECTIVE~~  
2 ~~SERVICES, THE OFFICE OF HEALTH CARE QUALITY, THE DEPARTMENT, AND A~~  
3 ~~LAW ENFORCEMENT AGENCY.~~

4           ~~(3) "HEALTH CARE FACILITY" HAS THE MEANING STATED IN~~  
5 ~~§ 19-114 OF THIS TITLE.~~

6           ~~(B) THE SECRETARY SHALL ESTABLISH A REGISTRY THAT INCLUDES~~  
7 ~~THE NAME AND SOCIAL SECURITY NUMBER OF ANY EMPLOYEE WHO HAS BEEN~~  
8 ~~TERMINATED FOR ABUSING OR NEGLECTING ANY OF THE FOLLOWING~~  
9 ~~INDIVIDUALS IN A HEALTH CARE FACILITY:~~

10           ~~(1) A SENIOR CITIZEN;~~

11           ~~(2) A DISABLED INDIVIDUAL;~~

12           ~~(3) A DEVELOPMENTALLY DISABLED INDIVIDUAL;~~

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

14           ~~(5) ANY INDIVIDUAL INCAPABLE OF SELF-DEFENSE.~~

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

16           ~~(1) THE EMPLOYEE GRIEVANCE PROCEDURE ADOPTED BY THE~~  
17 ~~HEALTH CARE FACILITY IN ACCORDANCE WITH § 19-351(E) OF THIS SUBTITLE~~  
18 ~~HAS BEEN FOLLOWED;~~

19           ~~(2) AN INVESTIGATION HAS BEEN COMPLETED BY BOTH THE~~  
20 ~~HEALTH CARE FACILITY AND AN APPROPRIATE AUTHORITY;~~

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

22           ~~(4) THE EMPLOYEE HAS BEEN TERMINATED; AND~~

23           ~~(5) NO CHARGES HAVE BEEN FILED.~~

24           ~~(D) (1) A HEALTH CARE FACILITY MAY ACCESS THE REGISTRY IF:~~

25           ~~(I) THE LICENSING AUTHORITY HAS DETERMINED THAT~~  
26 ~~THE HEALTH CARE FACILITY SHOULD HAVE ACCESS TO THE REGISTRY; AND~~

27           ~~(II) THE HEALTH CARE FACILITY IS DETERMINING~~  
28 ~~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           ~~(E) 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 ADOPT AN EMPLOYEE~~  
11 ~~GRIEVANCE PROCEDURE.~~

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

14           (a) The Department of Health and Mental Hygiene shall convene a  
15 workgroup to examine issues relating to the creation of a health care facility abuser  
16 registry.

17           (b) The workgroup shall include representatives from:

18                   (1) the Office of Health Care Quality;

19                   (2) the Office of the Attorney General;

20                   (3) law enforcement agencies;

21                   (4) health care providers;

22                   (5) labor representatives;

23                   (6) consumer advocates; and

24                   (7) other interested stakeholders.

25           (c) The workgroup shall examine:

26                   (1) due process issues relating to a person's name being listed in the  
27 registry;

28                   (2) appropriate safeguards for accessing the registry;

1           (3) estimated costs associated with operating a registry;

2           (4) the appropriate scope of a registry, including the types of facilities  
3 that should be included; and

4           (5) any other strategies that may be useful for identifying potential  
5 employees who are not qualified to work in health care facilities with vulnerable  
6 populations.

7           (d) In conducting its work, the workgroup shall review established registries  
8 in other states and any relevant literature on the effectiveness of such registries and  
9 other relevant strategies in preventing incidences of abuse.

10          (e) On or before December 1, 2012, the Department shall, in accordance with  
11 § 2-1246 of the State Government Article, report its findings and recommendations to  
12 the Senate Finance Committee and the House Health and Government Operations  
13 Committee.

14          SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
15          October 1, 2012.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.