

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

House Bill 534

(Chair, Health and Government Operations
Committee)(By Request - Departmental - Emergency
Management Agency, Maryland)

Health and Government Operations

Maryland Intrastate Hospital Assistance Compact

This departmental bill establishes an Intrastate Hospital Assistance Compact (compact) to provide for mutual assistance among hospitals entering into the compact to manage a “significant occurrence” and mutual cooperation in significant occurrence-related exercises, testing, or training activities using equipment or personnel simulating performance of any aspect of the giving and receiving of aid by compact hospitals during emergencies.

Fiscal Summary

State Effect: The bill’s requirements can be handled with existing budgeted resources.

Local Effect: Any impact on local jurisdictions is anticipated to be minimal.

Small Business Effect: The Maryland Institute for Emergency Medical Services Systems (MIEMSS) has determined that this bill has minimal or no impact on small businesses (attached). The Department of Legislative Services concurs with this assessment.

Analysis

Bill Summary: A “significant occurrence” means an incident or situation that affects a hospital’s ability to operate at full capacity or provide care in a safe manner while utilizing solely the hospital’s own resources.

Before entering into the compact, a hospital must provide the Office of Preparedness and Response (OPR) in the Department of Health and Mental Hygiene (DHMH) a letter indicating that it intends to enter into the compact and the name and contact information of the hospital's compact representative and compact representative alternate.

If a compact hospital experiences a significant occurrence, the compact representative (or alternate) may request assistance from another compact hospital by contacting either the Emergency Medical Resource Center at MIEMSS (Resource Center) or by contacting a compact hospital directly. If contacted for assistance by another hospital, a compact hospital must notify the Resource Center in order to invoke the terms of the compact. The Resource Center must immediately notify OPR, the Maryland Emergency Management Agency (MEMA), and local health and emergency management agencies.

As necessary, OPR must coordinate with local officials, MIEMSS, and MEMA to convey the request for assistance and notify the compact hospital that is seeking assistance of the names of the compact hospitals that have agreed to respond to the request. OPR, MIEMSS, MEMA, and local officials must provide additional assistance as may be required. Requests for assistance may be oral or in writing. Requests must provide specified information. Local officials, OPR, MIEMSS, MEMA, and representatives of the compact hospitals must consult frequently, with free exchange of information and plans generally relating to capabilities for responding to a significant occurrence. A patient transfer under the compact must be coordinated in consultation with MIEMSS.

A compact hospital may withhold resources to the extent necessary to provide reasonable protection to its own patients. An employee of a compact hospital that is responding to a request for assistance must have the same powers, duties, rights, and privileges as an employee that performs the same function at the hospital that has requested assistance. A licensed physician sent to a hospital requesting assistance under the compact must be credentialed in accordance with DHMH regulations governing disaster privileges.

The provisions of the compact take effect only subsequent to a notification to the Resource Center of a significant occurrence by a compact hospital or on commencement of exercises, testing, or training for mutual aid. The provisions must continue as long as exercises, testing, or training for a significant occurrence are in progress; a significant occurrence remains in effect; or a responding hospital's resources remain in a hospital that has requested assistance under the compact.

An employee of a compact hospital rendering services to another compact hospital pursuant to the compact must be considered an agent of the requesting compact hospital for tort liability and immunity purposes. A compact hospital or its employees that are rendering or receiving assistance pursuant to the compact may not be liable on account of any act or omission in good faith on the part of responding personnel or receiving

personnel while so engaged or on account of the maintenance or use of personnel, equipment, medicine, or supplies or the transfer of patients in connection provided. Good faith does not include willful misconduct, gross negligence, or recklessness.

The compact does not preclude any compact hospital from entering into supplementary agreements with another compact hospital or affect any other agreements among compact hospitals.

Each compact hospital must provide for the payment of wages, workers' compensation, health benefits, and other employee benefits to its own personnel. The requesting compact hospital must reimburse the responding compact hospital for certain reasonable and necessary expenses incurred by the responding compact hospital. Any two or more compact hospitals may enter into supplemental agreements establishing a different allocation of costs among those hospitals. The compact hospital must submit records of expenses incurred to satisfy auditing requirements.

Any compact hospital may withdraw from the compact by notifying OPR, but a withdrawal may not take effect until 30 days after submission of written notice of the intent to withdrawal. Withdrawal from the compact does not relieve the withdrawing hospital from obligations assumed under the compact before the effective date of withdrawal.

Current Law: Chapter 2 of 2002 established the Maryland Emergency Management Assistance Compact (MEMAC) to provide for mutual assistance in managing an emergency among local jurisdictions entering into the compact.

Background: Approximately 85% of Maryland hospitals have entered into a mutual aid agreement within their region or into agreements with individual facilities for the sharing of resources. However, few hospitals have signed mutual aid agreements for interregional sharing, in part due to concerns regarding credentialing and potential liability. Furthermore, if multiple facilities in a region are affected by an emergency, the affected hospitals need the ability to seek assistance from other hospitals outside the region.

The bill is modeled after MEMAC and the National Emergency Assistance Compact (EMAC). The compact will allow participating hospitals to share resources statewide in the event of an emergency or significant event. A hospital's participation will not limit its ability to enter into or continue in other local or regional agreements for resource sharing or mutual aid. Establishment of an intrastate hospital compact is cited as a specific project to be undertaken in the State's *Surge Capacity Goals and Metrics* as a measure to decrease the potential strain created in a medical surge event.

Maryland, along with 40 other states and two territories, is a member of EMAC, an interstate mutual aid agreement for states to send personnel and equipment to help disaster relief efforts in other states. Requests for EMAC assistance are legally binding contractual arrangements that require states asking for help to be responsible for the reimbursement of all out-of-state costs and the liability for out-of-state personnel. EMAC allows states to ask for any type of assistance needed, from earthquakes to acts of terrorism. Member states are not forced to provide assistance unless they are able to. In response to the terrorist attacks of September 11, 2001, the Governor issued executive orders to authorize the District of Columbia, New York, and Virginia to request emergency assistance from Maryland through EMAC.

MIEMSS oversees and coordinates all components of the statewide emergency medical services (EMS) system, including planning, operations, evaluation, and research. MIEMSS also provides medical direction, conducts and supports EMS educational programs, operates and maintains a statewide communications system, designates trauma and specialty centers, licenses and regulates commercial ambulance services, and participates in EMS-related public education and prevention programs. MIEMSS is an independent State agency, governed by an 11-member EMS Board appointed by the Governor. A Statewide EMS Advisory Council (SEMSAC), comprising representatives from organizations involved in providing emergency care services, advises and assists the EMS Board.

Additional Information: Although listed as a Maryland Emergency Management Agency departmental, this bill is a MIEMSS departmental bill.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Institute for Emergency Medical Services Systems; Harford, Montgomery, and Wicomico counties; Department of Health and Mental Hygiene; Maryland Association of Counties; Department of Legislative Services

Fiscal Note History: First Reader - February 26, 2014
ncs/ljm

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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Maryland Intrastate Hospital Assistance Compact

BILL NUMBER: HB 534

PREPARED BY: Maryland Institute for Emergency Medical Services System

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

This proposed legislation would create a means for hospitals to share resources, including personnel, supplies and services, when one or more facilities within Maryland are experiencing an event that severely affect their operations. The proposed legislation will have no impact on small business in Maryland.