

SENATE BILL 783

D3

7lr2686
CF HB 777

By: **Senator Cassilly**

Introduced and read first time: February 3, 2017

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Patient Early Intervention Programs**

3 FOR the purpose of providing that a statement made by a party during a discussion held
4 in accordance with a certain patient safety early intervention program is
5 inadmissible in a certain legal proceeding; authorizing a hospital or related
6 institution to establish a patient safety early intervention program; establishing
7 certain requirements for a patient safety early intervention program; providing that
8 services or support provided to a patient or the patient's family do not affect the right
9 of the patient or the patient's family to certain compensation; defining certain terms;
10 providing for the application of this Act; and generally relating to patient safety early
11 intervention programs and the admissibility of evidence in a proceeding or an action
12 relating to health care malpractice.

13 BY adding to

14 Article – Courts and Judicial Proceedings
15 Section 10–920.1
16 Annotated Code of Maryland
17 (2013 Replacement Volume and 2016 Supplement)

18 BY adding to

19 Article – Health – General
20 Section 19–304.1
21 Annotated Code of Maryland
22 (2015 Replacement Volume and 2016 Supplement)

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

25 **Article – Courts and Judicial Proceedings**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **10-920.1.**

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

4 (2) "PATIENT SAFETY EARLY INTERVENTION PROGRAM" MEANS A
5 PROGRAM THAT MEETS THE REQUIREMENTS OF § 19-304.1(C) OF THE
6 HEALTH - GENERAL ARTICLE.

7 (3) "STATEMENT" HAS THE MEANING STATED IN MARYLAND RULE
8 5-801.

9 (B) IN A PROCEEDING SUBJECT TO TITLE 3, SUBTITLE 2A OF THIS ARTICLE
10 OR A CIVIL ACTION FOR HEALTH CARE MALPRACTICE AGAINST A HEALTH CARE
11 PROVIDER, A STATEMENT MADE DURING A DISCUSSION HELD IN ACCORDANCE WITH
12 A PATIENT SAFETY EARLY INTERVENTION PROGRAM IS INADMISSIBLE AS EVIDENCE.

13 **Article - Health - General**

14 **19-304.1.**

15 (A) IN THIS SECTION, "ADVERSE EVENT" MEANS AN UNEXPECTED
16 OCCURRENCE THAT RELATES TO A PATIENT'S MEDICAL TREATMENT BUT IS NOT
17 RELATED TO THE NATURAL COURSE OF A PATIENT'S UNDERLYING ILLNESS,
18 DISEASE, OR CONDITION.

19 (B) A HOSPITAL OR RELATED INSTITUTION MAY ESTABLISH A PATIENT
20 SAFETY EARLY INTERVENTION PROGRAM.

21 (C) A PATIENT SAFETY EARLY INTERVENTION PROGRAM SHALL:

22 (1) PROVIDE FOR THE REASONABLE INVESTIGATION OF AN ADVERSE
23 EVENT TO DETERMINE IF HARM TO A PATIENT OCCURRED AND IF THE CARE
24 PROVIDED TO THE PATIENT DEVIATED FROM THE ACCEPTED STANDARD OF CARE;
25 AND

26 (2) IF IT IS DETERMINED AFTER AN INVESTIGATION THAT HARM TO A
27 PATIENT OCCURRED AND THAT THE CARE PROVIDED TO THE PATIENT DEVIATED
28 FROM THE ACCEPTED STANDARD OF CARE:

29 (I) OBTAIN INPUT ABOUT THE ADVERSE EVENT FROM THE
30 PATIENT OR THE PATIENT'S FAMILY;

1 **(II) DISCLOSE TO THE PATIENT AND, IF APPROPRIATE, THE**
2 **PATIENT'S FAMILY THE RESULTS AND FINDINGS OF THE INVESTIGATION;**

3 **(III) APOLOGIZE TO THE PATIENT FOR THE CARE PROVIDED**
4 **THAT DEVIATED FROM THE STANDARD OF CARE;**

5 **(IV) ADVISE THE PATIENT OF THE PATIENT'S RIGHT TO LEGAL**
6 **REPRESENTATION IN DISCUSSIONS REGARDING FAIR AND REASONABLE**
7 **COMPENSATION TO THE PATIENT; AND**

8 **(V) ALLOW THE PATIENT AND, IF APPROPRIATE, THE PATIENT'S**
9 **FAMILY TO PARTICIPATE IN EFFORTS TO IDENTIFY AND IMPLEMENT SYSTEM**
10 **IMPROVEMENTS DESIGNED TO PREVENT A RECURRENCE OF THE ADVERSE EVENT.**

11 **(D) A HOSPITAL OR RELATED INSTITUTION THAT ESTABLISHES A PATIENT**
12 **SAFETY EARLY INTERVENTION PROGRAM IN ACCORDANCE WITH THIS SECTION**
13 **SHALL DEVELOP AND PROVIDE TO THE PATIENT AND, IF APPROPRIATE, THE**
14 **PATIENT'S FAMILY INFORMATION ABOUT THE PROGRAM.**

15 **(E) ANY SERVICE OR SUPPORT, INCLUDING FINANCIAL SUPPORT,**
16 **PROVIDED TO A PATIENT OR THE PATIENT'S FAMILY DOES NOT AFFECT THE RIGHT**
17 **OF THE PATIENT OR THE PATIENT'S FAMILY TO FAIR AND REASONABLE**
18 **COMPENSATION FOR DAMAGES ASSOCIATED WITH THE ADVERSE EVENT AVAILABLE**
19 **UNDER STATE LAW IF THE PARTIES ARE UNABLE TO REACH AN AGREEMENT.**

20 **(F) NOTHING IN THIS SECTION AFFECTS THE PROVISIONS OF § 1-401 OF**
21 **THE HEALTH OCCUPATIONS ARTICLE.**

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to
23 apply only prospectively and may not be applied or interpreted to have any effect on or
24 application to any cause of action arising before the effective date of this Act.

25 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 2017.