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## House Bill 612

Date: March 2, 2020  
Committee: Health and Government Operations  
Bill Title: Health Care Facilities - Workplace Safety Program - Revisions  
RE: Letter of Information

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HB0612 requires a healthcare facility to guarantee that a health care worker who reports a physical assault or threatening behavior may elect not to care for the individual causing the harm or making the threat. The bill effectively allows a healthcare worker the prerogative of determining their work assignments.

The bill exposes a healthcare facility to monetary penalties under the Maryland Occupational Safety and Health (MOSH) law for failure to guarantee the healthcare worker's request.

The lack of definition for what is considered "threatening behavior" will most likely create challenges for small businesses who are unable to measure or have difficulty verifying the behavior that may have created the threatened feelings in the employee.

The bill places the responsibility of the bill's provisions on the healthcare *facility*, which in many instances may not be the controlling employer of a healthcare worker. MOSH law is generally limited to employee and employer relationships. **It is unclear how a healthcare worker performing contracted work at any healthcare facility would invoke, or how the healthcare facility could provide for, a different employer's healthcare worker reassignment.** It is also unclear how a healthcare facility would be able to provide for reassignment of a private healthcare worker, such as a private duty nurse.

Current MOSH law affords protections for employees who are exposed to hazardous conditions under its General Duty Clause, §5-104 of the Labor and Employment Article which provides employers must provide a workplace free from recognized hazards that is causing or likely to cause death or serious physical harm to the employee. MOSH does utilize this standard for instances of potential workplace violence and has adopted the Federal Workplace Violence Directive Instruction 16-9 - [Enforcement Procedures for Workplace Violence-8/23/2016](http://www.dlir.state.md.us/labor/instructions/)

Current MOSH law also has a discrimination/anti-retaliation law that provides protection for employees who, among other things, file a complaint related to their occupational safety and health, which refusing to work with a patient that in they feel could cause death or serious physical harm would generally be covered. See §5-604 of the Labor and Employment Article.

Finally, the bill is placed in a subtitle that defines "Health care facility" as a "hospital", including any subacute care units, or a State residential center. It is unclear if off site clinics, imaging, or treatment locations are considered "subacute care units" of a larger hospital under the definition of healthcare facility.