



Maryland  
Hospital Association

February 11, 2020

To: The Honorable Luke Clippinger, Chairman  
House Judiciary Committee

From: Jennifer Witten, Vice President, Government Affairs  
Maryland Hospital Association

Re: Letter of Information- House Bill 403- Immigration Enforcement - Public Schools,  
Hospitals, and Courthouses - Policies

Dear Chairman Clippinger:

On behalf of the Maryland Hospital Association's (MHA) 61 member hospitals and health systems, we appreciate the opportunity to comment on House Bill 403. Maryland's hospitals protect the rights of all individuals, including our immigrant population, and ensure access to quality health care. In 2017, at the request of members of the Maryland General Assembly, MHA asked Maryland's hospitals to review their policies related to undocumented individuals and non-U.S. citizens and update them to reflect guidance from the Maryland Office of the Attorney General (OAG).<sup>i</sup>

Notably, the guidance references federal requirements, including the Health Insurance Portability and Accountability Act (HIPAA) and the Emergency Medical Treatment and Active Labor Act (EMTALA). Title VI of the federal Civil Rights Act of 1964 and Section 1557 of the Affordable Care Act prohibit discrimination based on race, color, and national origin in programs and activities that receive federal financial assistance, including Medicaid and Medicare. Maryland law also prohibits discrimination by health care providers.<sup>ii</sup>

The guidance issued by the OAG noted the Department of Homeland Security has a policy against enforcement and removal of any individual at "sensitive locations." These include medical treatment and health care facilities, such as hospitals, doctors' offices, accredited health clinics, and emergent or urgent care facilities.<sup>iii</sup> Prior approval by DHS in limited circumstances allows federal agents access to patients if there is imminent threat or national security concerns.

Maryland's hospitals complied with this request and updated their policies to align with the OAG guidance. Hospitals in Maryland went beyond the initial request and agreed to a reporting protocol with the OAG if the U.S. Immigration and Customs Enforcement (ICE) agency contradicts its own policy by enforcing federal immigration laws in "sensitive locations," including hospitals. This process was conducted in coordination with other stakeholders such as Casa de Maryland, which generously offered to provide technical assistance to hospitals. The

OAG guidance, ICE policy, and a form hospitals received are attached to this letter. To date, we are not aware of a single instance of ICE enforcement in Maryland's hospitals.

Though well intentioned, HB 403 may attract the attention of parties such as ICE, which could create the very issue this legislation seeks to prevent. Further, any requirement to publicly publish a policy effectively provides the means for actors to circumvent it. For these reasons, we urge the committee to consider the unintended consequences of this legislation. We respectfully ask the public publishing to be reconsidered as a requirement.

For more information, please contact:

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<sup>i</sup> In addition, in a July 12, 2017 letter to Attorney General Frosh, John Barsa, Acting Asst. Secretary, DRS Office of Partnership and Engagement, stated the policy was still in effect.

<sup>ii</sup> Md. Code, Health-Gen. § 19-355

<sup>iii</sup> US Immigration and Customs Enforcement. (n.d.) FAQ on Sensitive Locations and Courthouse Arrests. <https://www.ice.gov/ero/enforcement/sensitive-loc#wcm-survey-target-id>