

# HOUSE BILL 57

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(PRE-FILED)

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By: **Delegate B. Robinson**

Requested: November 13, 2012

Introduced and read first time: January 9, 2013

Assigned to: Health and Government Operations

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## A BILL ENTITLED

1 AN ACT concerning

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

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 submit the names of former employees to the Secretary for inclusion in the  
10 registry; authorizing certain health care facilities to have access to the registry;  
11 prohibiting a health care facility from allowing an employee to access the  
12 registry except under certain circumstances; authorizing a person responsible  
13 for a certain individual to access the registry; requiring a health care facility to  
14 adopt a certain procedure, provide certain employee training, and implement a  
15 certain quality assurance program; prohibiting a health care facility from hiring  
16 certain individuals; defining certain terms; and generally relating to a registry  
17 of terminated employees of health care facilities.

18 BY repealing and reenacting, without amendments,  
19 Article – Health – General  
20 Section 19–114(d)  
21 Annotated Code of Maryland  
22 (2009 Replacement Volume and 2012 Supplement)

23 BY adding to  
24 Article – Health – General  
25 Section 19–347.1 and 19–351(e) and (f)  
26 Annotated Code of Maryland  
27 (2009 Replacement Volume and 2012 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,  
2 Article – Health – General  
3 Section 19–351(a)  
4 Annotated Code of Maryland  
5 (2009 Replacement Volume and 2012 Supplement)

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

8 **Article – Health – General**

9 19–114.

10 (d) (1) “Health care facility” means:

11 (i) A hospital, as defined in § 19–301 of this title;

12 (ii) A limited service hospital, as defined in § 19–301 of this  
13 title;

14 (iii) A related institution, as defined in § 19–301 of this title;

15 (iv) An ambulatory surgical facility;

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

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

20 (vii) A hospice, as defined in § 19–901 of this title;

21 (viii) A freestanding medical facility, as defined in § 19–3A–01 of  
22 this title; and

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

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

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

28 (ii) For the purpose of providing an exemption from a certificate  
29 of need under § 19–120 of this subtitle, a facility to provide comprehensive care  
30 constructed by a provider of continuing care, as defined in § 10–401 of the Human  
31 Services Article, if:

1                   1.     Except as provided under § 19–123 of this subtitle,  
2 the facility is for the exclusive use of the provider’s subscribers who have executed  
3 continuing care agreements and paid entrance fees that are at least equal to the  
4 lowest entrance fee charged for an independent living unit or an assisted living unit  
5 before entering the continuing care community, regardless of the level of care needed  
6 by the subscribers at the time of admission;

7                   2.     The facility is located on the campus of the continuing  
8 care community; and

9                   3.     The number of comprehensive care nursing beds in  
10 the community does not exceed:

11                   A.     24 percent of the number of independent living units  
12 in a community having less than 300 independent living units; or

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

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

18                   (iv)    Except for kidney transplant services or programs, the  
19 kidney disease treatment stations and services provided by or on behalf of a hospital  
20 or related institution; or

21                   (v)     The office of one or more individuals licensed to practice  
22 dentistry under Title 4 of the Health Occupations Article, for the purposes of  
23 practicing dentistry.

24 **19–347.1.**

25                   **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**  
26 **MEANINGS INDICATED.**

27                   **(2) “APPROPRIATE AUTHORITY” INCLUDES CHILD PROTECTIVE**  
28 **SERVICES, THE OFFICE OF HEALTH CARE QUALITY, THE DEPARTMENT, AND A**  
29 **LAW ENFORCEMENT AGENCY.**

30                   **(3) “HEALTH CARE FACILITY” HAS THE MEANING STATED IN**  
31 **§ 19–114 OF THIS TITLE.**

32                   **(B) THE SECRETARY SHALL ESTABLISH A REGISTRY THAT INCLUDES**  
33 **THE NAME AND SOCIAL SECURITY NUMBER OF ANY EMPLOYEE WHO HAS BEEN**

1 TERMINATED FOR ABUSING OR NEGLECTING ANY OF THE FOLLOWING  
2 INDIVIDUALS IN A HEALTH CARE FACILITY:

3 (1) A SENIOR CITIZEN;

4 (2) A DISABLED INDIVIDUAL;

5 (3) A DEVELOPMENTALLY DISABLED INDIVIDUAL;

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

7 (5) AN INDIVIDUAL INCAPABLE OF SELF-DEFENSE.

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

9 (1) THE EMPLOYEE GRIEVANCE PROCEDURE ADOPTED BY THE  
10 HEALTH CARE FACILITY IN ACCORDANCE WITH § 19-351(E) OF THIS SUBTITLE  
11 HAS BEEN FOLLOWED;

12 (2) AN INVESTIGATION HAS BEEN COMPLETED BY BOTH THE  
13 HEALTH CARE FACILITY AND AN APPROPRIATE AUTHORITY;

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

15 (4) THE EMPLOYEE HAS BEEN TERMINATED; AND

16 (5) NO CHARGES HAVE BEEN FILED.

17 (D) A HEALTH CARE FACILITY MAY SUBMIT THE NAME OF A FORMER  
18 EMPLOYEE TO THE SECRETARY FOR INCLUSION IN THE REGISTRY IF THE  
19 HEALTH CARE FACILITY IS IN COMPLIANCE WITH § 19-351(E) OF THIS  
20 SUBTITLE.

21 (E) (1) A HEALTH CARE FACILITY MAY ACCESS THE REGISTRY IF:

22 (I) THE LICENSING AUTHORITY HAS DETERMINED THAT  
23 THE HEALTH CARE FACILITY SHOULD HAVE ACCESS TO THE REGISTRY; AND

24 (II) THE HEALTH CARE FACILITY IS DETERMINING  
25 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           **(F) 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:**

11                   **(1) ADOPT AN EMPLOYEE GRIEVANCE PROCEDURE;**

12                   **(2) PROVIDE EMPLOYEE TRAINING ON THE PROPER HANDLING**  
13 **OF CONFIDENTIAL INFORMATION; AND**

14                   **(3) IMPLEMENT A QUALITY ASSURANCE PROGRAM THAT IS AIMED**  
15 **AT PREVENTING A FORMER EMPLOYEE FROM BEING RECOMMENDED FOR**  
16 **INCLUSION IN THE REGISTRY ESTABLISHED UNDER § 19-347.1 OF THIS**  
17 **SUBTITLE IF THE RECOMMENDATION IS BEING MADE FOR RETALIATORY**  
18 **PURPOSES.**

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

21           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
22 October 1, 2013.