Maryland
Hospital Association

House Bill 145: Hospitals – Patient's Bill of Rights
Position: Support with Amendments

Bill Summary
HB 145 would require each administrator of a hospital to provide patients with a certain patient's bill of rights; require each administrator of a hospital to provide certain patients with a translator, an interpreter, or another accommodation to provide certain assistance to patients; require each administrator of a hospital to conspicuously post copies of the patient's bill of rights on the hospital's website and in areas of the hospital accessible to patients; etc.

MHA Position
The Maryland Hospital Association (MHA) and our 62-member hospital and health system members view **patients and family members as an essential part of the health care team**. Nowhere is the partnership more apparent than in each hospital's patient bill of rights. A review of these documents, all of which are posted on MHA's *Breath of Fresh Care* web site demonstrate the value Maryland's hospitals place on patients' rights to information, fair treatment and autonomy over medical decisions, among other rights. These include the right to receive clear communication, to be included in care decisions, to receive informed consent for treatment, to know care providers and to participate in end-of-life decisions. Likewise, patients also have responsibilities as partners in the health care team.

Patient's rights are consistent across all hospitals; however, wording may vary. Under Maryland code and federal guidelines, hospitals must have a patient bill of rights, make a copy available to each patient and ensure each standard is met. The bill of rights must be consistent with **The Joint Commission guidelines and 42 CFR 482.13-CMS Conditions of Participation**. These guidelines are extensive and detail dozens of annual performance standards that hospitals must reflect in their policies and practices to receive accreditation from the commission. In addition, the **Office of Health Care Quality (OHCQ) recently finalized regulations within COMAR 10.07.01 Acute General and Special Hospitals to expand on current state law**. MHA supported those changes to OHCQ regulation, noting the agency's recognition that mandating specific standards and wording disregards a hospital's need to customize these essential patient communications based on the services offered and needs of their patient population. OHCQ's recent update also acknowledged that creating overly prescriptive standards created the potential for language that conflicts with national standards that are routinely updated.

Deviation from patient's rights provisions carry extensive penalties. Every hospital in Maryland is accredited by the Joint Commission and receives payment from CMS, thereby must be compliant with the bill of rights requirements.[1] The Joint Commission and the Office of

[1] In order to participate in and receive federal payment from Medicare or Medicaid programs, a health care organization must meet the government requirements for program participation, including a certification of

Health Care Quality conduct on-site inspections to determine compliance with the standards and if a hospital has not met standards, corrective actions may be taken, including – at the extreme that a hospital would lose the ability to bill Medicare and Medicaid, effectively shuttering its doors.

Maryland's laws and regulations should be consistent with the federal provisions' hospitals are held to. MHA respectfully requests that the legislation be amended to align with state and federal law, allow flexibility to incorporate community preferences and address provisions that require additional clarification.

For these reasons, we respectfully request the committee to give HB 145 a favorable report after amendments are agreed upon with sponsors.

compliance with the health and safety requirements called Conditions of Participation (CoPs) which are set forth in federal regulations. The certification is achieved based on either a survey conducted by a state agency (OHCQ) on behalf of the federal government or by a national accrediting organization, such as The Joint Commission, that has been recognized by CMS as having standards and a survey process that meet or exceed Medicare's requirements. Health care organizations that achieve accreditation through a Joint Commission "deemed status" survey are determined to meet or exceed Medicare and Medicaid requirements. **All of Maryland's hospitals are accredited by The Joint Commission.**

MHA requests the following amendments: Drafted to House Bill 145-First Reader

Amendment 1: On page 1, line 2 add: **AND RESPONSIBILITIES** to title
Rationale: Patient responsibilities go hand in hand with rights, as outlined in The Joint Commission standards

Amendment 2: On page 2, line 11 strike Provide and add **OFFER**
Rationale: Many hospitals are moving towards use of patient portals as a means to electronically communicate and store all relevant patient information. As such, patients often do not want "another piece of paper."

Amendment 3: On page 2, Line 13 strike Joint Commission and add **NATIONALLY RECOGNIZED HOSPITAL ACCREDITATION ORGANIZATIONS' STANDARDS AND ALIGNED WITH CENTER FOR MEDICARE AND MEDICAID CONDITIONS OF PARTICIPATION 42 CRF 482.13**
Rationale: Need to be compliant with federal laws and accrediting organizations. While all Maryland hospitals are accredited by the Joint Commission, other accrediting bodies are available and recognized by the federal government.

Amendment 4: On page 2, line 17 strike or is illiterate
Rationale: Federal and state provisions do not use the word "illiterate"

Amendment 5: On Page 2, line 23-24, add **AND VISITORS** and strike including the admitting office, patient floors, patient rooms, the outpatient department, and emergency services waiting areas;
Rationale: the language in lines 21-23 stipulate areas that are accessible to patients and visitors which includes all settings above.

Amendment 6: On page 3, line 10, add **IF STAFF SAFETY IS NOT A CONCERN**
Rationale: While we agree patients should know who their care team members are, there are certain unit within a hospital where employee safety is a concern and first names should suffice to meet this requirement.

Amendment 7: On page 3, line 11-12 strike entire section
Rationale: Covered in another section

Amendment 8: On page 3, line 17-18 strike entire section
Rationale: Moved to line 25

Amendment 9: On page 3, line 21 to add: **IN ACCORDANCE WITH HEALTH-GENERAL ARTICLE §19-350 AND DOES NOT IMPEDE ON CARE DELIVERY;**
Rationale: Patient's should receive all information regarding their care, however in cases that care is urgent need to be careful not to impede or delay care.

Amendment 10: On page 3, line 25-26 strike including large print, braille, audio recordings, and computer files;
Rationale: This level of specificity is not necessary

Amendment 11: On page 3, line 27 add **TEMPORARY** after other
Rationale: Language is needed to clarify that the hospital will not be providing aids for the patient to take home, but instead will provide aids for the patient during their stay in the hospital.

Amendment 12: On page 3, line 30 strike Health Care Team Member add **OTHER HEALTHCARE PRACTITIONER**
Rationale: The term practitioner better clarifies that only qualified professionals who are in a position to provide information to a patient should do so.

Amendment 13: On page 4, line 3 strike Access the Patient's Medical Records and add, **BE GIVEN A COPY OF THE HIPPA NOTICE OF PRIVACY PRACTICE**
Rationale: Conforms language to federal requirements.

Amendment 14: On page 4, line 10 add **IN ACCORDANCE WITH HOSPITAL VISITATION POLICIES**
Rationale: Hospitals have existing visitation policies that have been crafted to balance the needs of the patient for support of loved ones with the needs for rest, comfort of other patients and space for medical staff to perform examinations and procedures

Amendment 15: On page 4, line 5 strike have pain managed and add **DISCUSS AND COMMUNICATE ABOUT APPROPRIATE TREATMENT AND PLANS FOR PAIN MANAGEMENT;**
Rationale: Having pain controlled is a goal of treatment, and like all positive health outcomes, one that hospitals strive for, however positive outcomes cannot be enumerated rights. Instead patients have a right to discuss and consider appropriate treatment plans with their providers.

Amendment 16: On page 4, line 11, strike an individual and add **SURROGATE DECISION MAKER OR LEGAL GUARDIAN AS DEFINED BY STATE LAW**
Rationale: Surrogate decision making for a patient who lacks agency is defined by existing state law.

Amendment 17: On page 4, after line 26 add new section **(E) INFORM PATIENT OF HIS OR HER RESPONSIBLITIES RELATED TO HIS OR HER CARE, TREATMENT AND SERVICES TO INCLUDE AT MINIMUM;**
(1) PROVIDE ACCURATE AND COMPLETED INFORMATION ABOUT YOUR HEALTH, ADDRESS, TELEPHONE NUMBER, DOB, INSURANCE CARRIER AND EMPLOYER
(2) BE RESPECTFUL OF YOUR HEALTHCARE TEAM
(3) BE CONSIDERATE IN LANGUAGE AND CONDUCT OF OTHER PEOPLE AND PROPERTY

(4) BE IN CONTROL OF YOUR BEHAVIOR
(5) ASK QUESTIONS IF YOU DON'T UNDERSTAND
(6) REPORT UNEXPECTED CHANGES IN YOUR HEALTH
(7) FOLLOW HOSPITAL RULES, AND;
(8) TAKE RESPONSIBILITY FOR THE CONSEQUENCES OF REFUSING CARE OR NOT FOLLOWING INSTRUCTIONS
Rationale: Theses standards are defined and included in The Joint Commission Patient Bill of Rights guidelines.

Amendment 18; On page 4, line 27-28 strike entire section
Rationale: The Office of Health Care Quality already has this authority granted by Article Health General 19-360.

Amendment 19: On page 5, line 1 strike on or before January 1 each year and add: **JANUARY 1, 2021**
Rationale: The Office of Health Care Quality (OHCQ) should perform an initial assessment of compliance. After this time, non-compliance by hospitals should be handled through existing OHCQ channels for patient grievances