



Maryland
Hospital Association

Senate Bill 912 – Maryland Healthy Working Families Act – Adverse Actions – Absence Control Policy

Position: *Support*

Bill Summary

SB 912 prohibits a certain provision of the Maryland Healthy Working Families Act from being construed to prohibit an employer from applying a certain absence control policy if the employer provides at least 40 hours of paid leave a year, excluding earned sick and safe leave.

Additionally, SB 912 requires that the absence control policy must be uniformly applied, is provided to all employees uniformly, has a progressive accountability structure and provides for a warning before any possible action is taken against an employee.

MHA Position

Maryland's hospitals believe the Maryland Healthy Working Families Act can be strengthened. Sick and safe leave ensures that people can get well at home and/or care for a loved one before returning to work healthy and recharged. However, while the current law is a critical benefit for workers, it is also important for employers to use common-sense absence control policies to offset any abuses.

Hospitals throughout Maryland have indicated that since the implementation of the Maryland Healthy Working Families Act unplanned absences have increased, specifically around holidays and long weekends, creating staffing challenges in both clinical and non-clinical roles. These unplanned absences influence predictive staffing patterns and disrupt continuity of care for patients who are undergoing treatment.

In addition to staffing and care continuity concerns, the Maryland Department of Labor, Licensing and Regulation finds there is confusion among both employers and employees regarding the use of an absence control policy.¹ Currently, an absence control policy can be used to prohibit the improper use of earned sick and safe leave, including prohibiting a pattern of abuse. However, an employer may not apply an absence control policy that includes earned sick and safe leave absences as an absence that may lead to or result in adverse action being taken against an employee.² This allows employees who abuse sick and safe leave to use this type of leave to avoid any consequences — even if they routinely abuse the policy.

SB 912 seeks to address a gap in current law by providing an important safeguard for employers, including hospitals. The bill offers the means to implement absence control policies that are progressive, clear, and reasonable for both employers and employees.

For these reasons, we urge you to give SB 912 a *favorable* report.

¹ *Fiscal Note*. Maryland Healthy Working Families Act – Adverse Actions – Absence Control Policy. (2019) Available at http://mgaleg.maryland.gov/2019RS/fnotes/bil_0006/hb0686.pdf

² *Ibid.*