

SENATE BILL 371

Unofficial Copy  
J1

2000 Regular Session  
(01r1036)

**ENROLLED BILL**

-- *Economic and Environmental Affairs/Environmental Matters* --

Introduced by **Senator Hollinger (Chairman, Health Subcommittee) and  
Senators Conway, Harris, Pinsky, and Sfikas**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_ M.

\_\_\_\_\_  
President.

CHAPTER 270

1 AN ACT concerning

2 **Medical Records - Confidentiality**

3 FOR the purpose of prohibiting the disclosure by sale, rental, or barter of certain  
4 medical records; exempting certain medical records from the prohibition;  
5 requiring certain payors to accept claims only from certain medical care  
6 electronic claims clearinghouses; creating additional limitations on the  
7 disclosure of certain records; exempting certain notes from the definition of  
8 medical records; authorizing mental health providers to maintain certain notes  
9 in specified situations; providing that a personal note is a medical record if  
10 disclosed in a certain manner; requiring mental health providers to withhold  
11 certain portions of the medical record and abide by certain requirements;  
12 authorizing certain persons to release or obtain certain records under certain  
13 circumstances; ~~providing for punitive damages when a person knowingly and~~  
14 ~~willfully violates the provisions of this Act~~; establishing an Advisory Council on  
15 Medical Privacy and Confidentiality to examine confidentiality issues; providing  
16 for the membership and terms of the Advisory Council; establishing the duties of

1 the Advisory Council; requiring the Advisory Council to annually submit a  
2 report to the Governor and General Assembly; defining certain terms; and  
3 generally relating to the confidentiality of medical records.

4 BY renumbering  
5 Article - Health - General  
6 Section 4-302(e) and 4-307(d) through (h), respectively  
7 to be Section 4-302(g) and 4-307(g) through (k), respectively  
8 Annotated Code of Maryland  
9 (1994 Replacement Volume and 1999 Supplement)

10 BY adding to  
11 Article - Health - General  
12 Section 4-302(e) ~~and (f)~~, 4-302.1, *and* 4-307(d) through (f), ~~and 4-309(g)~~; and  
13 4-3A-01 through 4-3A-05, inclusive, to be under the new subtitle  
14 "Subtitle 3A. State Advisory Council on Medical Privacy and  
15 Confidentiality"  
16 Annotated Code of Maryland  
17 (1994 Replacement Volume and 1999 Supplement)

18 BY repealing and reenacting, with amendments,  
19 Article - Health - General  
20 Section 4-306(b)(7) and 4-307(a)  
21 Annotated Code of Maryland  
22 (1994 Replacement Volume and 1999 Supplement)

23 BY repealing and reenacting, without amendments,  
24 Article - Health - General  
25 Section 4-307(b) and (c) ~~and 4-309(e) and (f)~~  
26 Annotated Code of Maryland  
27 (1994 Replacement Volume and 1999 Supplement)

28 BY repealing and reenacting, with amendments,  
29 Article - Courts and Judicial Proceedings  
30 Section 9-109(b), 9-109.1(b), and 9-121(b)  
31 Annotated Code of Maryland  
32 (1998 Replacement Volume and 1999 Supplement)

33 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
34 MARYLAND, That Section(s) 4-302(e) and 4-307(d) through (h), respectively, of the  
35 Health - General Article of the Annotated Code of Maryland be renumbered to be  
36 Section(s) 4-302(g) and 4-307(g) through (k), respectively.

37 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
38 read as follows:

1

**Article - Health - General**

2 4-302.

3 (E) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A  
4 PERSON MAY NOT DISCLOSE BY SALE, RENTAL, OR BARTER ANY MEDICAL RECORD.

5 (2) THIS SUBSECTION SHALL NOT PROHIBIT THE TRANSFERS OF  
6 MEDICAL RECORDS RELATING TO THE TRANSFER OF OWNERSHIP OF A HEALTH CARE  
7 PRACTICE OR FACILITY IF THE TRANSFER IS IN ACCORD WITH THE ETHICAL  
8 GUIDELINES OF THE APPLICABLE HEALTH CARE PROFESSION OR PROFESSIONS.

9 ~~(F) (1) IF A MEDICAL RECORD IS TRANSFERRED UNDER SUBSECTION (E)(2)~~  
10 ~~OF THIS SECTION, THE PROVIDER WHO MAINTAINS THE RECORDS SHALL NOTIFY~~  
11 ~~THE PATIENT OR PERSON IN INTEREST.~~

12 ~~(2) THE NOTICE UNDER THIS SUBSECTION SHALL:~~

13 ~~(I) BE MADE BY FIRST CLASS MAIL TO THE LAST KNOWN ADDRESS~~  
14 ~~OF THE PATIENT OR PERSON IN INTEREST WITHIN 30 DAYS OF THE TRANSFER OF~~  
15 ~~OWNERSHIP OF THE HEALTH CARE PRACTICE; AND~~

16 ~~(II) INCLUDE A DESIGNATED LOCATION FROM WHICH THE~~  
17 ~~MEDICAL RECORD MAY BE RETRIEVED, IF WANTED.~~

18 4-302.1.

19 (A) PAYORS THAT ACCEPT CLAIMS ORIGINATING IN THIS STATE FROM  
20 MEDICAL CARE ELECTRONIC CLAIMS CLEARINGHOUSES SHALL ACCEPT CLAIMS  
21 ONLY FROM MEDICAL CARE ELECTRONIC CLAIMS CLEARINGHOUSES THAT ARE:

22 (1) ACCREDITED BY THE ELECTRONIC HEALTHCARE NETWORK  
23 ACCREDITATION COMMISSION; OR

24 (2) CERTIFIED BY THE ~~STATE~~ MARYLAND HEALTH CARE COMMISSION.

25 (B) THE ~~STATE~~ MARYLAND HEALTH CARE COMMISSION SHALL ADOPT  
26 REGULATIONS TO CARRY OUT THIS SUBSECTION.

27 4-306.

28 (b) A health care provider shall disclose a medical record without the  
29 authorization of a person in interest:

30 (7) [To] SUBJECT TO THE ADDITIONAL LIMITATIONS FOR A MEDICAL  
31 RECORD DEVELOPED PRIMARILY IN CONNECTION WITH THE PROVISION OF MENTAL  
32 HEALTH SERVICES IN § 4-307 OF THIS SUBTITLE, TO grand juries, prosecution  
33 agencies, law enforcement agencies or their agents or employees to further an  
34 investigation or prosecution, pursuant to a subpoena, warrant, or court order for the  
35 sole purposes of investigating and prosecuting criminal activity, provided that the

1 prosecution agencies and law enforcement agencies have written procedures to  
2 protect the confidentiality of the records;

3 4-307.

4 (a) (1) In this section the following words have the meanings indicated.

5 (2) "Case management" means an individualized recipient centered  
6 service designed to assist a recipient in obtaining effective mental health services  
7 through the assessing, planning, coordinating, and monitoring of services on behalf of  
8 the recipient.

9 (3) "Core service agency" means an organization approved by the Mental  
10 Hygiene Administration to manage mental health resources and services in a  
11 designated area or to a designated target population.

12 (4) "Director" means the Director of the Mental Hygiene Administration  
13 or the designee of the Director.

14 (5) "Mental health director" means the health care professional who  
15 performs the functions of a clinical director or the designee of that person in a health  
16 care, detention, or correctional facility.

17 (6) (I) "PERSONAL NOTE" MEANS INFORMATION THAT IS:

18 1. THE WORK PRODUCT AND PERSONAL PROPERTY OF A  
19 MENTAL HEALTH PROVIDER; AND

20 2. EXCEPT AS PROVIDED IN SUBSECTION (D)(3) OF THIS  
21 SECTION, NOT DISCOVERABLE OR ADMISSIBLE AS EVIDENCE IN ANY CRIMINAL,  
22 CIVIL, OR ADMINISTRATIVE ACTION.

23 (II) EXCEPT AS PROVIDED IN SUBSECTION (D)(2) OF THIS SECTION,  
24 A MEDICAL RECORD DOES NOT INCLUDE A PERSONAL NOTE OF A MENTAL HEALTH  
25 CARE PROVIDER, IF THE MENTAL HEALTH CARE PROVIDER:

26 1. KEEPS THE PERSONAL NOTE IN THE MENTAL HEALTH  
27 CARE PROVIDER'S SOLE POSSESSION FOR THE PROVIDER'S OWN PERSONAL USE;

28 2. MAINTAINS THE PERSONAL NOTE SEPARATE FROM THE  
29 RECIPIENT'S MEDICAL RECORDS; AND

30 3. DOES NOT DISCLOSE THE PERSONAL NOTE TO ANY OTHER  
31 PERSON EXCEPT:

32 A. THE MENTAL HEALTH PROVIDER'S SUPERVISING HEALTH  
33 CARE PROVIDER THAT MAINTAINS THE CONFIDENTIALITY OF THE PERSONAL NOTE;

34 B. A CONSULTING HEALTH CARE PROVIDER THAT  
35 MAINTAINS THE CONFIDENTIALITY OF THE PERSONAL NOTE; OR

1 C. AN ATTORNEY OF THE HEALTH CARE PROVIDER THAT  
2 MAINTAINS THE CONFIDENTIALITY OF THE PERSONAL NOTE.

3 (III) "PERSONAL NOTE" DOES NOT INCLUDE INFORMATION  
4 CONCERNING THE PATIENT'S DIAGNOSIS, TREATMENT PLAN, SYMPTOMS,  
5 PROGNOSIS, OR PROGRESS NOTES.

6 (b) The disclosure of a medical record developed in connection with the  
7 provision of mental health services shall be governed by the provisions of this section  
8 in addition to the other provisions of this subtitle.

9 (c) When a medical record developed in connection with the provision of  
10 mental health services is disclosed without the authorization of a person in interest,  
11 only the information in the record relevant to the purpose for which disclosure is  
12 sought may be released.

13 (D) (1) TO THE EXTENT A MENTAL HEALTH CARE PROVIDER DETERMINES IT  
14 NECESSARY AND APPROPRIATE, THE MENTAL HEALTH CARE PROVIDER MAY  
15 MAINTAIN A PERSONAL NOTE REGARDING A RECIPIENT.

16 (2) A PERSONAL NOTE SHALL BE CONSIDERED PART OF A RECIPIENT'S  
17 MEDICAL RECORDS IF, AT ANY TIME, A MENTAL HEALTH CARE PROVIDER DISCLOSES  
18 A PERSONAL NOTE TO:

19 (A) A PERSON OTHER THAN:

20 (I) THE PROVIDER'S SUPERVISING HEALTH CARE PROVIDER;

21 (II) A CONSULTING HEALTH CARE PROVIDER;

22 (III) AN ATTORNEY OF THE HEALTH CARE PROVIDER; OR

23 (IV) A RECIPIENT UNDER PARAGRAPH (3) OF THIS SUBSECTION.

24 (3) THE PROVISIONS OF THIS SUBSECTION DO NOT PROHIBIT THE  
25 DISCLOSURE, DISCOVERY, OR ADMISSIBILITY OF A PERSONAL NOTE REGARDING A  
26 RECIPIENT WHO HAS INITIATED AN ACTION FOR MALPRACTICE, AN INTENTIONAL  
27 TORT, OR PROFESSIONAL NEGLIGENCE AGAINST THE HEALTH CARE PROVIDER.

28 (E) (1) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPHS (3), (4), AND (5) OF  
29 THIS SUBSECTION, IF THE DISCLOSURE OF A PORTION OF A MEDICAL RECORD  
30 RELATING TO A PSYCHOLOGICAL TEST WOULD COMPROMISE THE OBJECTIVITY OR  
31 FAIRNESS OF THE TEST OR THE TESTING PROCESS, A MENTAL HEALTH CARE  
32 PROVIDER MAY NOT DISCLOSE THAT PORTION OF THE MEDICAL RECORD TO ANY  
33 PERSON, INCLUDING A SUBJECT OF THE TEST.

34 (2) THE RAW TEST DATA RELATING TO A PSYCHOLOGICAL TEST IS ONLY  
35 DISCOVERABLE OR ADMISSIBLE AS EVIDENCE IN A CRIMINAL, CIVIL, OR  
36 ADMINISTRATIVE ACTION ON THE DETERMINATION BY THE COURT OR  
37 ADMINISTRATIVE HEARING OFFICER THAT THE EXPERT WITNESS FOR THE PARTY

1 SEEKING THE RAW TEST DATA IS QUALIFIED BY THE APPROPRIATE TRAINING,  
 2 EDUCATION, OR EXPERIENCE TO INTERPRET THE RESULTS OF THAT PORTION OF  
 3 THE RAW TEST DATA RELATING TO THE PSYCHOLOGICAL TEST.

4 (3) (I) A RECIPIENT WHO HAS BEEN THE SUBJECT OF A  
 5 PSYCHOLOGICAL TEST MAY DESIGNATE A PSYCHOLOGIST LICENSED UNDER TITLE 18  
 6 OF THE HEALTH OCCUPATIONS ARTICLE OR A PSYCHIATRIST LICENSED UNDER  
 7 TITLE 14 OF THE HEALTH OCCUPATIONS ARTICLE TO WHOM A HEALTH CARE  
 8 PROVIDER MAY DISCLOSE THE MEDICAL RECORD.

9 (II) THE RECIPIENT SHALL:

10 1. REQUEST THE DISCLOSURE AUTHORIZED UNDER THIS  
 11 PARAGRAPH IN WRITING; AND

12 2. COMPLY WITH THE PROVISIONS OF § 4-304 OF THIS  
 13 SUBTITLE.

14 (4) A HEALTH CARE PROVIDER MAY DISCLOSE A MEDICAL RECORD  
 15 RELATING TO A PSYCHOLOGICAL TEST AS PROVIDED UNDER § 4-305(B)(2)(I) OF THIS  
 16 SUBTITLE.

17 (5) THE PROVISIONS OF THIS SUBSECTION MAY NOT RESTRICT ACCESS  
 18 TO OR AFFECT THE DISCLOSURE OF A MEDICAL RECORD WHICH IS ALSO AN  
 19 EDUCATION RECORD UNDER THE FEDERAL INDIVIDUALS WITH DISABILITIES  
 20 EDUCATION ACT, THE FEDERAL FAMILY EDUCATION RIGHTS AND PRIVACY ACT, OR  
 21 ANY FEDERAL AND STATE REGULATIONS THAT HAVE BEEN ADOPTED TO  
 22 IMPLEMENT THOSE LAWS.

23 (F) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, A PERSON  
 24 IN INTEREST SHALL HAVE THE RIGHT TO OBTAIN A MEDICAL RECORD OF A  
 25 RECIPIENT THAT IS DEVELOPED IN CONJUNCTION WITH A MENTAL HEALTH  
 26 EVALUATION RELATING TO OBTAINING OR CONTINUING EMPLOYMENT, IF THE  
 27 EVALUATION HAS BEEN PERFORMED AT THE REQUEST OF OR ON BEHALF OF AN  
 28 EMPLOYER OR PROSPECTIVE EMPLOYER:

29 (1) IN CONNECTION WITH A CIVIL ACTION OR U.S. EQUAL EMPLOYMENT  
 30 OPPORTUNITY COMMISSION COMPLAINT INITIATED BY THE PERSON IN INTEREST;  
 31 OR

32 (2) ON A WRITTEN AUTHORIZATION OF THE EMPLOYER OR  
 33 PROSPECTIVE EMPLOYER.

34 ~~4-309.~~

35 ~~(e) (1) A health care provider or any other person, including an officer or~~  
 36 ~~employee of a governmental unit, who knowingly and willfully requests or obtains a~~  
 37 ~~medical record under false pretenses or through deception or knowingly and willfully~~  
 38 ~~discloses a medical record in violation of this subtitle is guilty of a misdemeanor and~~  
 39 ~~on conviction is subject to the following penalties:~~

1 (i) A fine not exceeding \$50,000, imprisonment for not more than 1  
2 year, or both;

3 (ii) If the offense is committed under false pretenses, a fine not  
4 exceeding \$100,000, imprisonment for not more than 5 years, or both; and

5 (iii) If the offense is committed with intent to sell, transfer, or use  
6 individually identifiable health information for commercial advantage, personal gain,  
7 or malicious harm, a fine not exceeding \$250,000, imprisonment for not more than 10  
8 years, or both.

9 (2) This subsection does not apply to an officer or employee of a  
10 governmental unit that is conducting a criminal investigation.

11 (f) A health care provider or any other person who knowingly violates any  
12 provision of this subtitle is liable for actual damages.

13 (G) A HEALTH CARE PROVIDER OR ANY OTHER PERSON, INCLUDING AN  
14 OFFICER OR EMPLOYEE OF A LOCAL GOVERNMENT UNDER § 5-303 OF THE COURTS  
15 ARTICLE OR STATE PERSONNEL UNDER § 5-522 OF THE COURTS ARTICLE, MAY BE  
16 LIABLE FOR PUNITIVE DAMAGES IF THE PERSON:

17 (1) KNOWINGLY AND WILLFULLY REQUESTS OR OBTAINS A MEDICAL  
18 RECORD UNDER FALSE PRETENSES OR THROUGH DECEPTION WITH INTENT TO SELL,  
19 TRANSFER, OR USE INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION FOR  
20 COMMERCIAL ADVANTAGE, PERSONAL GAIN, OR MALICIOUS HARM; OR

21 (2) KNOWINGLY AND WILLFULLY DISCLOSES A MEDICAL RECORD IN  
22 VIOLATION OF THIS SUBTITLE WITH INTENT TO SELL, TRANSFER, OR USE  
23 INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION FOR COMMERCIAL  
24 ADVANTAGE, PERSONAL GAIN, OR MALICIOUS HARM.

25 SUBTITLE 3A. STATE ADVISORY COUNCIL ON MEDICAL PRIVACY AND  
26 CONFIDENTIALITY.

27 4-3A-01.

28 THERE IS A STATE ADVISORY COUNCIL ON MEDICAL PRIVACY AND  
29 CONFIDENTIALITY.

30 4-3A-02.

31 (A) IN THIS SUBTITLE, "ADVISORY COUNCIL" MEANS THE STATE ADVISORY  
32 COUNCIL ON MEDICAL PRIVACY AND CONFIDENTIALITY.

33 (B) (1) THE ADVISORY COUNCIL CONSISTS OF ~~25~~ 29 MEMBERS.

34 (2) THE ADVISORY COUNCIL SHALL CONSIST OF ~~25~~ 29 VOTING MEMBERS  
35 APPOINTED BY THE GOVERNOR.

1 (3) OF THE ~~25~~ 29 VOTING MEMBERS:

2 (I) ONE SHALL BE THE SECRETARY OF HEALTH AND MENTAL  
3 HYGIENE OR THE SECRETARY'S DESIGNEE;

4 (II) ~~TWO~~ THREE SHALL BE LICENSED PHYSICIANS, INCLUDING:

5 1. ONE BOARD CERTIFIED PEDIATRICIAN WITH EXPERTISE  
6 IN THE CONFIDENTIALITY OF CHILDREN'S MEDICAL RECORDS; AND

7 2. ONE LICENSED PSYCHIATRIST;

8 (III) ONE SHALL BE A LICENSED DENTIST;

9 (IV) ONE SHALL BE A REPRESENTATIVE OF THE HEALTH  
10 INSURANCE INDUSTRY;

11 (V) ONE SHALL BE A REPRESENTATIVE OF THE HOSPITAL  
12 INDUSTRY;

13 (VI) ONE SHALL BE A REPRESENTATIVE OF A MEDICAL  
14 INSTITUTION THAT IS ENGAGED IN MEDICAL RESEARCH;

15 (VII) THREE SHALL BE CONSUMER MEMBERS, INCLUDING ONE  
16 FROM THE MARYLAND PATIENT ADVOCACY GROUP;

17 (VIII) ONE SHALL BE A REPRESENTATIVE OF AN INTEREST GROUP  
18 THAT IS INTERESTED IN MEDICAL CONFIDENTIALITY;

19 (IX) ONE SHALL BE A REPRESENTATIVE FROM THE MENTAL  
20 HEALTH ASSOCIATION;

21 (X) ONE SHALL BE A LICENSED NURSE;

22 (XI) ONE SHALL BE A REPRESENTATIVE OF A STATE HEALTH CARE  
23 REGULATORY COMMISSION THAT IS INVOLVED IN THE COLLECTION OF DATA;

24 (XII) ONE SHALL BE A MEDICAL ETHICIST;

25 (XIII) ONE SHALL BE A COMPUTER SECURITY AND ENCRYPTION  
26 EXPERT;

27 (XIV) ONE SHALL BE A MEMBER OF THE MARYLAND PLAINTIFF'S BAR  
28 ASSOCIATION;

29 (XV) ONE SHALL BE A MEMBER OF THE MARYLAND DEFENSE BAR  
30 ASSOCIATION;

31 (XVI) ONE SHALL BE A REPRESENTATIVE OF THE DEPARTMENT OF  
32 HEALTH AND MENTAL HYGIENE WITH SPECIFIC KNOWLEDGE OF STATE AND

1 FEDERAL REGULATIONS ON CONFIDENTIALITY RELATIVE TO MENTAL HEALTH  
2 TREATMENT;

3 (XVII) ONE SHALL BE A REPRESENTATIVE OF ORGANIZED LABOR;

4 (XVIII) ONE SHALL BE A MEDICAL RECORDS PROFESSIONAL;

5 (XIX) ONE SHALL BE A REPRESENTATIVE FROM THE ASSOCIATION  
6 OF CHAIN DRUGSTORES;

7 (XX) ONE SHALL BE A LICENSED PSYCHOLOGIST;

8 (XXI) ONE SHALL BE A REPRESENTATIVE OF THE LIFE INSURANCE  
9 INDUSTRY;

10 (XXII) ONE SHALL BE A LICENSED PHARMACIST;

11 (XXIII) ONE SHALL BE A LICENSED CLINICAL SOCIAL WORKER;

12 ~~(XXIV)~~ (XXIV) ONE SHALL BE A MEMBER OF THE SENATE OF  
13 MARYLAND; AND

14 ~~(XXII)~~ (XXV) ONE SHALL BE A MEMBER OF THE MARYLAND HOUSE  
15 OF DELEGATES.

16 (C) (1) THE TERM OF A VOTING MEMBER IS 4 YEARS.

17 (2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE  
18 TERMS PROVIDED FOR MEMBERS OF THE ADVISORY COUNCIL.

19 (3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A  
20 SUCCESSOR IS APPOINTED AND QUALIFIES.

21 (4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES  
22 ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND  
23 QUALIFIES.

24 (D) THE GOVERNOR MAY REMOVE A MEMBER FOR INCOMPETENCE OR  
25 MISCONDUCT.

26 4-3A-03.

27 FROM AMONG THE MEMBERS OF THE ADVISORY COUNCIL, THE GOVERNOR  
28 SHALL APPOINT A CHAIRMAN FOR A 2-YEAR TERM.

29 4-3A-04.

30 (A) A MAJORITY OF THE MEMBERS SERVING ON THE ADVISORY COUNCIL IS A  
31 QUORUM.

1 (B) THE ADVISORY COUNCIL SHALL DETERMINE THE TIMES AND PLACES OF  
2 ITS MEETINGS.

3 (C) A MEMBER OF THE ADVISORY COUNCIL:

4 (1) MAY NOT RECEIVE COMPENSATION; BUT

5 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE  
6 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

7 (D) THE SECRETARY OF HEALTH AND MENTAL HYGIENE SHALL DESIGNATE  
8 THE STAFF NECESSARY TO CARRY OUT THIS SUBTITLE.

9 4-3A-05.

10 (A) THE ADVISORY COUNCIL SHALL:

11 (1) ADVISE THE GENERAL ASSEMBLY OF EMERGING ISSUES IN THE  
12 CONFIDENTIALITY OF MEDICAL RECORDS;

13 (2) CONDUCT HEARINGS;

14 (3) MONITOR DEVELOPMENTS IN FEDERAL LAW AND REGULATIONS  
15 REGARDING:

16 (I) CONFIDENTIALITY OF MEDICAL RECORDS;

17 (II) HEALTH CARE INFORMATION TECHNOLOGY;

18 (III) TELEMEDICINE; AND

19 (IV) PROVIDER AND PATIENT COMMUNICATION;

20 (4) FACILITATE DISSEMINATION OF INFORMATION ON, AND  
21 COMPLIANCE WITH, FEDERAL STANDARDS FOR PRIVACY OF INDIVIDUALLY  
22 IDENTIFIABLE HEALTH INFORMATION;

23 (5) STUDY THE ISSUE OF PATIENT OR PERSON IN INTEREST  
24 NOTIFICATION SUBSEQUENT TO:

25 (I) THE TRANSFER OF RECORDS RELATING TO THE TRANSFER OF  
26 OWNERSHIP OF A HEALTH CARE PRACTICE;

27 (II) THE DEATH, RETIREMENT, OR CHANGE IN EMPLOYMENT OF A  
28 HEALTH CARE PRACTITIONER; OR

29 (III) THE SALE, DISSOLUTION, OR BANKRUPTCY OF A CORPORATION  
30 WHICH HAS OWNERSHIP INTERESTS OR POSSESSION OF MEDICAL RECORDS;

31 (6) STUDY MEDICAL DATABASES AND THE ELECTRONIC TRANSMISSION  
32 OF DATA IN RELATION TO ITS IMPACT ON PATIENT CONFIDENTIALITY;

1           ~~(5)~~    (7)    STUDY EMERGING PROVIDER BEST PRACTICES FOR  
2 SUPPORTING PATIENT CONFIDENTIALITY;

3           ~~(6)~~    (8)    MAKE RECOMMENDATIONS TO THE GENERAL ASSEMBLY  
4 REGARDING THE CONFIDENTIALITY OF MEDICAL RECORDS; AND

5           ~~(7)~~    (9)    ON OR BEFORE DECEMBER 15 OF EACH YEAR, SHALL SUBMIT  
6 AN ANNUAL REPORT AND ITS RECOMMENDATIONS TO THE GOVERNOR, AND SUBJECT  
7 TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY.

8                                   **Article - Courts and Judicial Proceedings**

9 9-109.

10       (b)    Unless otherwise provided, in all judicial, legislative, or administrative  
11 proceedings, a patient or [his] THE PATIENT'S authorized representative has a  
12 privilege to refuse to disclose, and to prevent a witness from [disclosing,  
13 communications] DISCLOSING:

14           (1)    COMMUNICATIONS relating to diagnosis or treatment of the  
15 [patient's mental or emotional disorder] PATIENT; OR

16           (2)    ANY INFORMATION THAT BY ITS NATURE WOULD SHOW THE  
17 EXISTENCE OF A MEDICAL RECORD OF THE DIAGNOSIS OR TREATMENT.

18 9-109.1.

19       (b)    Unless otherwise provided, in any judicial, legislative, or administrative  
20 proceeding, a client or a client's authorized representative has a privilege to refuse to  
21 disclose, and to prevent a witness from disclosing, communications relating [to  
22 diagnosis] TO:

23           (1)    DIAGNOSIS or treatment of the [client's mental or emotional  
24 disorder] CLIENT; OR

25           (2)    ANY INFORMATION THAT BY ITS NATURE WOULD SHOW A MEDICAL  
26 RECORD OF THE DIAGNOSIS OR TREATMENT EXISTS.

27 9-121.

28       (b)    Unless otherwise provided, in all judicial or administrative proceedings, a  
29 client has a privilege to refuse to disclose, and to prevent a witness from disclosing,  
30 communications made while the client was receiving counseling OR ANY  
31 INFORMATION THAT BY ITS NATURE WOULD SHOW THAT SUCH COUNSELING  
32 OCCURRED.

33       SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
34 July 1, 2000.

