

# SENATE BILL 960

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11r3074  
CF HB 600

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By: **Senator Middleton**

Introduced and read first time: March 3, 2011

Assigned to: Rules

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## A BILL ENTITLED

1 AN ACT concerning

2 **Health Care Providers – Investigations – Information Sharing Among State**  
3 **Agencies**

4 FOR the purpose of adding to the list of entities to which the Health Services Cost  
5 Review Commission may disclose certain physician information; altering the list  
6 of entities that may be medical review committees charged by law to evaluate  
7 certain matters relating to health care providers; requiring the Board of  
8 Physicians to disclose information contained in a record to the Secretary of  
9 Health and Mental Hygiene and certain agencies for a certain purpose; making  
10 a certain technical change; and generally relating to sharing information among  
11 State agencies for purposes of investigating health care providers, health care  
12 quality, and utilization of health care.

13 BY repealing and reenacting, with amendments,  
14 Article – Health – General  
15 Section 19–218  
16 Annotated Code of Maryland  
17 (2009 Replacement Volume and 2010 Supplement)

18 BY repealing and reenacting, with amendments,  
19 Article – Health Occupations  
20 Section 1–401 and 14–411(d)  
21 Annotated Code of Maryland  
22 (2009 Replacement Volume and 2010 Supplement)

23 BY repealing and reenacting, without amendments,  
24 Article – Health Occupations  
25 Section 14–411(a), (b), and (c)  
26 Annotated Code of Maryland  
27 (2009 Replacement Volume and 2010 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

**Article – Health – General**

19–218.

(a) The Commission shall require each facility to give the Commission information that:

(1) Concerns the total financial needs of the facility;

(2) Concerns its current and expected resources to meet its total financial needs;

(3) Includes the effect of any proposal made, under Subtitle 1 of this title, on comprehensive health planning; and

(4) Includes physician information sufficient to identify practice patterns of individual physicians across all facilities.

(b) The [names] **IDENTITIES** of individual physicians are confidential and are not discoverable or admissible in evidence in a civil or criminal proceeding, and may only be disclosed to the following:

(1) The utilization review committee of a Maryland hospital;

(2) The Medical and Chirurgical Faculty of the State of Maryland; [or]

(3) The State Board of Physicians;

**(4) THE OFFICE OF HEALTH CARE QUALITY IN THE DEPARTMENT; OR**

**(5) AN INVESTIGATORY BODY UNDER THE STATE OR FEDERAL GOVERNMENT.**

**Article – Health Occupations**

1–401.

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

(2) (i) “Alternative health care system” means a system of health care delivery other than a hospital or related institution.

(ii) “Alternative health care system” includes:

- 1                               1.     A health maintenance organization;
- 2                               2.     A preferred provider organization;
- 3                               3.     An independent practice association;
- 4                               4.     A community health center that is a nonprofit,  
5 freestanding ambulatory health care provider governed by a voluntary board of  
6 directors and that provides primary health care services to the medically indigent;
- 7                               5.     A freestanding ambulatory care facility as that term  
8 is defined in § 19–3B–01 of the Health – General Article; or
- 9                               6.     Any other health care delivery system that utilizes a  
10 medical review committee.

11                               (3)     “Medical review committee” means a committee or board that:

- 12                               (i)     Is within one of the categories described in subsection (b) of  
13 this section; and
- 14                               (ii)    Performs functions that include at least one of the functions  
15 listed in subsection (c) of this section.

16                               (4)     (i)     “Provider of health care” means any person who is licensed  
17 by law to provide health care to individuals.

18                               (ii)    “Provider of health care” does not include any nursing  
19 institution that is conducted by and for those who rely on treatment by spiritual  
20 means through prayer alone in accordance with the tenets and practices of a  
21 recognized church or religious denomination.

22                               (5)     “The Maryland Institute for Emergency Medical Services Systems”  
23 means the State agency described in § 13–503 of the Education Article.

24                               (6)     “The Maryland Health Care Commission” means the State agency  
25 described in § 19–103 of the Health – General Article.

26                               (b)     For purposes of this section, a medical review committee is:

27                               (1)     A regulatory board, [or] agency, **OR GROUP OF AGENCIES**  
28 established by State or federal law to license, certify, or discipline any provider of  
29 health care;

1                   (2)    A committee of the Faculty or any of its component societies or a  
2 committee of any other professional society or association composed of providers of  
3 health care;

4                   (3)    A committee appointed by or established in a local health  
5 department for review purposes;

6                   (4)    A committee appointed by or established in the Maryland Institute  
7 for Emergency Medical Services Systems;

8                   (5)    A committee of the medical staff or other committee, including any  
9 risk management, credentialing, or utilization review committee established in  
10 accordance with § 19–319 of the Health – General Article, of a hospital, related  
11 institution, or alternative health care system, if the governing board of the hospital,  
12 related institution, or alternative health care system forms and approves the  
13 committee or approves the written bylaws under which the committee operates;

14                   (6)    A committee or individual designated by the holder of a pharmacy  
15 permit, as defined in § 12–101 of this article, that performs the functions listed in  
16 subsection (c) of this section, as part of a pharmacy’s ongoing quality assurance  
17 program;

18                   (7)    Any person, including a professional standard review organization,  
19 who contracts with an agency of this State or of the federal government to perform any  
20 of the functions listed in subsection (c) of this section;

21                   (8)    Any person who contracts with a provider of health care to perform  
22 any of those functions listed in subsection (c) of this section that are limited to the  
23 review of services provided by the provider of health care;

24                   (9)    An organization, established by the Maryland Hospital  
25 Association, Inc. and the Faculty, that contracts with a hospital, related institution, or  
26 alternative delivery system to:

27                           (i)    Assist in performing the functions listed in subsection (c) of  
28 this section; or

29                           (ii)   Assist a hospital in meeting the requirements of § 19–319(e)  
30 of the Health – General Article;

31                   (10)   A committee appointed by or established in an accredited health  
32 occupations school;

33                   (11)   An organization described under § 14–501 of this article that  
34 contracts with a hospital, related institution, or health maintenance organization to:

35                           (i)    Assist in performing the functions listed in subsection (c) of  
36 this section; or

1                   (ii) Assist a health maintenance organization in meeting the  
2 requirements of Title 19, Subtitle 7 of the Health – General Article, the National  
3 Committee for Quality Assurance (NCQA), or any other applicable credentialing law  
4 or regulation;

5                   (12) An accrediting organization as defined in § 14–501 of this article;

6                   (13) A Mortality and Quality Review Committee established under  
7 § 5–801 or a Morbidity, Mortality, and Quality Review Committee established under  
8 § 18–107 of the Health – General Article;

9                   (14) A center designated by the Maryland Health Care Commission as  
10 the Maryland Patient Safety Center that performs the functions listed in subsection  
11 (c)(1) of this section; or

12                   (15) The Maryland Health Care Commission or its staff, when  
13 performing the functions listed in subsection (c) of this section, provided that the data  
14 or medical information under review is furnished to the Maryland Health Care  
15 Commission by another medical review committee.

16           (c) For purposes of this section, a medical review committee:

17                   (1) Evaluates and seeks to improve the quality of health care provided  
18 by providers of health care;

19                   (2) Evaluates the need for and the level of performance of health care  
20 provided by providers of health care;

21                   (3) Evaluates the qualifications, competence, and performance of  
22 providers of health care; or

23                   (4) Evaluates and acts on matters that relate to the discipline of any  
24 provider of health care.

25           (d) (1) Except as otherwise provided in this section, the proceedings,  
26 records, and files of a medical review committee are not discoverable and are not  
27 admissible in evidence in any civil action.

28                   (2) The proceedings, records, and files of a medical review committee  
29 are confidential and are not discoverable and are not admissible in evidence in any  
30 civil action arising out of matters that are being reviewed and evaluated by the  
31 medical review committee if requested by the following:

32                   (i) The Department of Health and Mental Hygiene to ensure  
33 compliance with the provisions of § 19–319 of the Health – General Article;

1 (ii) A health maintenance organization to ensure compliance  
2 with the provisions of Title 19, Subtitle 7 of the Health – General Article and  
3 applicable regulations;

4 (iii) A health maintenance organization to ensure compliance  
5 with the National Committee for Quality Assurance (NCQA) credentialing  
6 requirements; or

7 (iv) An accrediting organization to ensure compliance with  
8 accreditation requirements or the procedures and policies of the accrediting  
9 organization.

10 (3) If the proceedings, records, and files of a medical review committee  
11 are requested by any person from any of the entities in paragraph (2) of this  
12 subsection:

13 (i) The person shall give the medical review committee notice  
14 by certified mail of the nature of the request and the medical review committee shall  
15 be granted a protective order preventing the release of its proceedings, records, and  
16 files; and

17 (ii) The entities listed in paragraph (2) of this subsection may  
18 not release any of the proceedings, records, and files of the medical review committee.

19 (e) Subsection (d)(1) of this section does not apply to:

20 (1) A civil action brought by a party to the proceedings of the medical  
21 review committee who claims to be aggrieved by the decision of the medical review  
22 committee; or

23 (2) Any record or document that is considered by the medical review  
24 committee and that otherwise would be subject to discovery and introduction into  
25 evidence in a civil trial.

26 (f) (1) A person shall have the immunity from liability described under §  
27 5–637 of the Courts and Judicial Proceedings Article for any action as a member of the  
28 medical review committee or for giving information to, participating in, or contributing  
29 to the function of the medical review committee.

30 (2) A contribution to the function of a medical review committee  
31 includes any statement by any person, regardless of whether it is a direct  
32 communication with the medical review committee, that is made within the context of  
33 the person's employment or is made to a person with a professional interest in the  
34 functions of a medical review committee and is intended to lead to redress of a matter  
35 within the scope of a medical review committee's functions.

36 (g) Notwithstanding this section, §§ 14–410 and 14–412 of this article apply  
37 to:

1           (1)    The Board of Physicians; and

2           (2)    Any other entity, to the extent that it is acting in an investigatory  
3 capacity for the Board of Physicians.

4   14–411.

5           (a)    In this section, “record” means the proceedings, records, or files of the  
6 Board.

7           (b)    Except as otherwise expressly provided in this section and § 14–411.1 of  
8 this subtitle, the Board or any of its investigatory bodies may not disclose any  
9 information contained in a record.

10          (c)    Nothing in this section shall be construed to prevent or limit the  
11 disclosure of:

12           (1)    General licensure, certification, or registration information  
13 maintained by the Board, if the request for release complies with the criteria of  
14 § 10–617(h) of the State Government Article;

15           (2)    Profile information collected and disseminated under § 14–411.1 of  
16 this subtitle; or

17           (3)    Personal and other identifying information of a licensee, as  
18 required by the National Practitioner Data Bank for participation in the proactive  
19 disclosure service.

20          (d)    The Board shall disclose any information contained in a record to:

21           **(1) [a] A** committee of a hospital, health maintenance organization, or  
22 related institution if:

23           **[(1)] (I)**   The committee of a medical hospital staff concerned with  
24 physician discipline or other committee of a hospital, health maintenance  
25 organization, or related institution requests the information in writing;

26           **[(2)] (II)**   The Board has issued an order as to a licensed physician on  
27 whom the information is requested; and

28           **[(3)] (III)**   The Board determines that the information requested is  
29 necessary for an investigation or action of the committee as to a medical privilege of a  
30 licensed physician; **OR**

1                   **(2) THE SECRETARY, THE OFFICE OF HEALTH CARE QUALITY IN**  
2 **THE DEPARTMENT, OR THE HEALTH SERVICES COST REVIEW COMMISSION**  
3 **FOR THE PURPOSE OF INVESTIGATING QUALITY OR UTILIZATION OF CARE.**

4                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
5 July 1, 2011.