

HOUSE BILL 996

D3

4lr1532

By: **Delegates Carter, Anderson, Dumais, Glass, Rosenberg, Simmons, Smigiel, Summers, and Vallario**

Introduced and read first time: February 6, 2014

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Admissibility of Writings or Records of Health Care Providers**

3 FOR the purpose of making records and writings of certain health care providers
4 admissible in certain health care malpractice trials under certain
5 circumstances; providing for the application of this Act; and generally relating
6 to the admissibility of records and writings of certain health care providers in
7 certain health care malpractice trials under certain circumstances.

8 BY repealing and reenacting, with amendments,
9 Article – Courts and Judicial Proceedings
10 Section 10–104
11 Annotated Code of Maryland
12 (2013 Replacement Volume and 2013 Supplement)

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

15 **Article – Courts and Judicial Proceedings**

16 10–104.

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

18 (2) “Health care provider” means:

19 (i) A health care provider, as defined in § 3–2A–01 of this
20 article;

21 (ii) An ambulatory surgical facility;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (iii) An inpatient facility that is organized primarily in the
2 rehabilitation of disabled persons, through an integrated program of medical and other
3 service provided under competent professional supervision;

4 (iv) A home health agency, as defined in § 19–401 of the Health
5 – General Article;

6 (v) Any health institution, service, or program for which a
7 certificate of need is required under Title 19 of the Health – General Article; or

8 (vi) A person who is:

9 1. Substantially similar to a health care provider
10 described in items (i) through (v) of this paragraph; and

11 2. Regulated by another state to provide health care
12 services.

13 (3) “State” means a state of the United States or the District of
14 Columbia.

15 (b) (1) The provisions of this section apply only to a claim for:

16 (i) Damages for personal injury;

17 (ii) Medical, hospital, or disability benefits under §§ 19–505 and
18 19–506 of the Insurance Article;

19 (iii) First party motor vehicle benefits under §§ 19–509 and
20 19–510 of the Insurance Article; and

21 (iv) First party health insurance benefits.

22 (2) [This section does not apply to an action for damages filed under
23 Title 3, Subtitle 2A of this article.

24 (3) Subject to the provisions of [paragraphs (1) and (2)] **PARAGRAPH**
25 **(1)** of this subsection, the provisions of this section apply to a proceeding in:

26 (i) The District Court; or

27 (ii) A circuit court if the amount in controversy in the action in
28 the circuit court does not exceed the amount specified in § 4–401 of this article for that
29 type of action.

30 (c) (1) A writing or record of a health care provider described in this
31 section is admissible under this section if:

1 (i) The writing or record is offered in the trial of a civil action in
2 the District Court or a circuit court;

3 (ii) At least 60 days, except as provided in paragraph (2) of this
4 subsection, before the beginning of the trial, the party who intends to introduce the
5 writing or record:

6 1. Serves notice of the party's intent to introduce the
7 writing or record without the support of a health care provider's testimony, a list that
8 identifies each writing or record, and a copy of the writing or record on all other
9 parties as provided under Maryland Rule 1-321; and

10 2. Files notice of service and the list that identifies each
11 writing or record with the court; and

12 (iii) The writing or record is otherwise admissible.

13 (2) A party who receives a notice under paragraph (1) of this
14 subsection and intends to introduce another writing or record of a health care provider
15 without a health care provider's testimony shall:

16 (i) Serve a notice of intent, a list that identifies each writing or
17 record, and a copy of the writing or record at least 30 days before the beginning of the
18 trial; and

19 (ii) File notice of service and the list that identifies each writing
20 or record with the court.

21 (3) The list required under paragraphs (1) and (2) of this subsection
22 shall include:

23 (i) The name of the health care provider for each writing or
24 record; and

25 (ii) The date of each writing or record of the health care provider
26 or each date of treatment by the health care provider.

27 (d) (1) A writing or record of a health care provider made to document a
28 medical, dental, or other health condition, a health care provider's opinion, or the
29 providing of health care is admissible without the support of the testimony of a health
30 care provider as the maker or the custodian of the writing or record as evidence of the
31 existence of a medical, dental, or health condition, the opinion, and the necessity and
32 the providing of health care.

33 (2) A finder of fact may attach whatever weight to a writing or record
34 that the finder of fact deems appropriate.

1 (e) (1) A written statement or bill for health care expenses is admissible
2 without the support of the testimony of a health care provider as the maker or the
3 custodian of the statement or bill as evidence of the amount, fairness, and
4 reasonableness of the charges for the services or materials provided.

5 (2) A finder of fact may attach whatever weight to a writing or record
6 that the finder of fact deems appropriate.

7 (f) Nothing contained in this section may be construed to limit the right of a
8 party to:

9 (1) Request a summons to compel the attendance of a witness;

10 (2) Examine a witness who appears at trial; or

11 (3) Engage in discovery as provided under the Maryland Rules.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
13 construed to apply only prospectively and may not be applied or interpreted to have
14 any effect on or application to any cause of action arising before the effective date of
15 this Act.

16 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2014.