

HOUSE BILL 1339

R4

4lr2557
CF SB 807

By: **Delegate Stein**

Introduced and read first time: February 7, 2014

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Drivers' Licenses – Disorder, Disease, or Physical Disability – Defining and**
3 **Reporting**

4 FOR the purpose of requiring the Department of Health and Mental Hygiene, the
5 Medical and Chirurgical Faculty, and the State Board of Examiners in
6 Optometry to define diseases and physical disabilities that may render an
7 individual unable to exercise reasonable control over a motor vehicle; expanding
8 the scope of health care professionals authorized to make a certain report to the
9 Medical Advisory Board and to the subject of the report; prohibiting a
10 psychiatrist, licensed psychologist, or psychiatric–mental health nursing
11 specialist from making a certain report under certain circumstances unless
12 authorized by a certain person in writing; defining a certain term; and generally
13 relating to defining and reporting of disorders, diseases, or physical disabilities
14 that may impair an individual's ability to drive.

15 BY repealing and reenacting, without amendments,
16 Article – Health Occupations
17 Section 19–101(f)
18 Annotated Code of Maryland
19 (2009 Replacement Volume and 2013 Supplement)

20 BY repealing and reenacting, without amendments,
21 Article – Courts and Judicial Proceedings
22 Section 9–109(a)(2) and (4) and (b) and 9–109.1(a)(1) and (4) and (b)
23 Annotated Code of Maryland
24 (2013 Replacement Volume and 2013 Supplement)

25 BY repealing and reenacting, with amendments,
26 Article – Transportation
27 Section 16–119
28 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2012 Replacement Volume and 2013 Supplement)

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

Article – Health Occupations

19–101.

(f) “Licensed certified social worker” means an individual licensed by the Board to practice certified social work.

Article – Courts and Judicial Proceedings

9–109.

(a) (2) “Licensed psychologist” means a person who is licensed to practice psychology under the laws of Maryland.

(4) “Psychiatrist” means a person licensed to practice medicine who devotes a substantial proportion of his time to the practice of psychiatry.

(b) Unless otherwise provided, in all judicial, legislative, or administrative proceedings, a patient or the patient’s authorized representative has a privilege to refuse to disclose, and to prevent a witness from disclosing:

(1) Communications relating to diagnosis or treatment of the patient;
or

(2) Any information that by its nature would show the existence of a medical record of the diagnosis or treatment.

9–109.1.

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

(4) “Psychiatric–mental health nursing specialist” means a registered nurse who:

(i) Has a master’s degree in psychiatric–mental health nursing;
or

(ii) Has a baccalaureate degree in nursing and a master’s degree in a mental health field; or

1 (iii) Is certified as a clinical specialist in psychiatric and mental
2 health nursing by the American Nurses' Association or by a body approved by the
3 Board of Nursing.

4 (b) Unless otherwise provided, in any judicial, legislative, or administrative
5 proceeding, a client or a client's authorized representative has a privilege to refuse to
6 disclose, and to prevent a witness from disclosing, communications relating to:

7 (1) Diagnosis or treatment of the client; or

8 (2) Any information that by its nature would show a medical record of
9 the diagnosis or treatment exists.

10 Article – Transportation

11 16–119.

12 (A) IN THIS SECTION, “HEALTH CARE PROFESSIONAL” MEANS:

13 (1) A PHYSICIAN;

14 (2) A PHYSICIAN ASSISTANT;

15 (3) A NURSE;

16 (4) A NURSE PRACTITIONER;

17 (5) A LICENSED CERTIFIED SOCIAL WORKER, AS DEFINED IN §
18 9–101 OF THE HEALTH OCCUPATIONS ARTICLE;

19 (6) A LICENSED PSYCHOLOGIST, AS DEFINED IN § 9–109 OF THE
20 COURTS ARTICLE;

21 (7) A PSYCHIATRIST, AS DEFINED IN § 9–109 OF THE COURTS
22 ARTICLE;

23 (8) A PSYCHIATRIC–MENTAL HEALTH NURSING SPECIALIST, AS
24 DEFINED IN § 9–109.1 OF THE COURTS ARTICLE; OR

25 (9) A PARAMEDIC.

26 [(a)] (B) The Department of Health and Mental Hygiene, together with the
27 Medical and Chirurgical Faculty and the State Board of Examiners in Optometry,
28 shall define:

1 (1) Disorders characterized by lapses of consciousness; [and]

2 (2) Disorders that result in a corrected visual acuity that fails to
3 comply with the vision requirements of this subtitle; AND

4 (3) **OTHER DISEASES OR PHYSICAL DISABILITIES THAT MAY**
5 **RENDER AN INDIVIDUAL UNABLE TO EXERCISE REASONABLE CONTROL OVER A**
6 **MOTOR VEHICLE.**

7 [(b)] (C) (1) Except as provided in paragraph (2) of this subsection, any
8 [physician and any other person authorized to diagnose, detect, or treat disorders
9 defined under subsection (a) of this section] **HEALTH CARE PROFESSIONAL** may
10 report **A DISORDER, DISEASE, OR PHYSICAL DISABILITY THAT IS DEFINED UNDER**
11 **SUBSECTION (B) OF THIS SECTION** to the Medical Advisory Board and to the subject
12 of the report, in writing, the full name, date of birth, and address of each individual 15
13 years old or older who has any such disorder.

14 (2) Unless authorized by the individual in writing, a report may not be
15 made **BY A PSYCHIATRIST, LICENSED PSYCHOLOGIST, OR**
16 **PSYCHIATRIC-MENTAL HEALTH NURSING SPECIALIST** from information derived
17 from the diagnosis or treatment of any individual on whom a confidential or privileged
18 relationship [is conferred by law] **EXISTS UNDER §§ 9-109 AND 9-109.1 OF THE**
19 **COURTS ARTICLE.**

20 [(c)] (D) On receipt of a report under this section, the Administration shall:

21 (1) As soon as practicable, arrange for an examination of each reported
22 individual who holds a driver's license; and

23 (2) If the individual fails to meet the requirements of this subtitle,
24 cancel his license.

25 [(d)] (E) (1) Except as provided in paragraph (2) of this subsection, the
26 reports made to the Administration under this section:

27 (i) Are confidential;

28 (ii) May be disclosed only on court order; and

29 (iii) May be used only to determine the qualifications of an
30 individual to drive.

31 (2) The Administration may use information in the reports it receives
32 for the purpose of driver safety research, provided that personal information is not
33 published or disclosed.

1 (3) The Administration may contract with third parties to assist with
2 driver safety research.

3 (4) A person may not use these reports for any other purpose.

4 **[(e)] (F)** A civil or criminal action may not be brought against any person
5 who makes a report under this section and who does not violate any confidential or
6 privileged relationship conferred by law.

7 **[(f)] (G)** A report made under this section may not be used as evidence in
8 any civil or criminal trial, except in a legal action involving an alleged violation of a
9 confidential or privileged relationship conferred by law.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2014.