

SENATE BILL 338

J1
SB 376/12 – FIN

5lr2303

By: **Senator Conway**
Introduced and read first time: February 6, 2015
Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Medical Records – Authorization to Disclose – Person in Interest**

3 FOR the purpose of altering the definition of “person in interest” as it relates to the
4 disclosure of confidential medical records to include the spouse, parent, or child of a
5 deceased person under certain circumstances; requiring a certain person in interest
6 to include a certain affidavit with a certain authorization for the disclosure of certain
7 medical records; and generally relating to the authorization to disclose medical
8 records to a person in interest.

9 BY repealing and reenacting, with amendments,
10 Article – Health – General
11 Section 4–301(l) and 4–303
12 Annotated Code of Maryland
13 (2009 Replacement Volume and 2014 Supplement)

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

16 **Article – Health – General**

17 4–301.

18 (l) “Person in interest” means:

19 (1) An adult on whom a health care provider maintains a medical record;

20 (2) A person authorized to consent to health care for an adult consistent
21 with the authority granted;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



(3) (I) A duly appointed personal representative of a deceased person;
OR

(II) A SPOUSE, PARENT, OR CHILD OF A DECEASED PERSON, IF
THE SPOUSE, PARENT, OR CHILD COMPLIES WITH THE AFFIDAVIT REQUIREMENT
PROVIDED IN § 4-303(C) OF THIS SUBTITLE;

(4) (i) A minor, if the medical record concerns treatment to which the
minor has the right to consent and has consented under Title 20, Subtitle 1 of this article;
or

(ii) A parent, guardian, custodian, or a representative of the minor
designated by a court, in the discretion of the attending physician who provided the
treatment to the minor, as provided in § 20-102 or § 20-104 of this article;

(5) If item (4) of this subsection does not apply to a minor:

(i) A parent of the minor, except if the parent's authority to consent
to health care for the minor has been specifically limited by a court order or a valid
separation agreement entered into by the parents of the minor; or

(ii) A person authorized to consent to health care for the minor
consistent with the authority granted; or

(6) An attorney appointed in writing by a person listed in item (1), (2), (3),
(4), or (5) of this subsection.

4-303.

(a) A health care provider shall disclose a medical record on the authorization of
a person in interest in accordance with this section.

(b) Except as otherwise provided in subsections [(c)] (D) and [(d)] (E) of this
section, an authorization shall:

(1) Be in writing, dated, and signed by the person in interest AND, IF
REQUIRED UNDER SUBSECTION (C) OF THIS SECTION, ACCOMPANIED BY AN
AFFIDAVIT;

(2) State the name of the health care provider;

(3) Identify to whom the information is to be disclosed;

(4) State the period of time that the authorization is valid, which may not
exceed 1 year, except:

(i) In cases of criminal justice referrals, in which case the authorization shall be valid until 30 days following final disposition; or

(ii) In cases where the patient on whom the medical record is kept is a resident of a nursing home, in which case the authorization shall be valid until revoked, or for any time period specified in the authorization; and

(5) Apply only to a medical record developed by the health care provider unless in writing:

(i) The authorization specifies disclosure of a medical record that the health care provider has received from another provider; and

(ii) The other provider has not prohibited redisclosure.

(C) IF A PERSON IN INTEREST IS THE SPOUSE, PARENT, OR CHILD OF A DECEASED PERSON, THE AUTHORIZATION SHALL BE ACCOMPANIED BY AN AFFIDAVIT IN WHICH THE AFFIANT DECLARES AND AFFIRMS UNDER THE PENALTIES OF PERJURY THAT:

(1) THE AFFIANT IS AN ADULT AND COMPETENT TO BE A WITNESS;

(2) THE AFFIANT IS THE SPOUSE, PARENT, OR CHILD OF THE DECEASED PERSON; AND

(3) THE AUTHORIZATION AND AFFIDAVIT HAVE NOT BEEN EXECUTED FOR ANY UNLAWFUL PURPOSE.

[(c)] (D) A health care provider shall disclose a medical record on receipt of a preauthorized form that is part of an application for insurance.

[(d)] (E) A health care provider shall disclose a medical record on receipt of an authorization for the release of relevant medical information that is included with the claim application form filed with the Workers' Compensation Commission in accordance with § 9-709(a), § 9-710(b), or § 9-711(a) of the Labor and Employment Article.

[(e)] (F) (1) Except in cases of criminal justice referrals, a person in interest may revoke an authorization in writing.

(2) A revocation of an authorization becomes effective on the date of receipt by the health care provider.

(3) A disclosure made before the effective date of a revocation is not affected by the revocation.

1 [(f)] **(G)** A copy of the following shall be entered in the medical record of a
2 patient or recipient:

3 (1) A written authorization;

4 (2) Any action taken in response to an authorization; and

5 (3) Any revocation of an authorization.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2015.