
By: Senators Bromwell and Young, Young, Derr, Dorman, Hafer, Hollinger, Madden, Pica, and Trotter

Introduced and read first time: February 7, 1996

Assigned to: Rules

Re-referred to: Finance, February 14, 1996

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 7, 1996

CHAPTER _____

1 AN ACT concerning

2 ~~Health Care Access and Cost Commission~~ **Medical Records** - Medical Care Data Base
3 ~~Collection - Notice and Informed Consent and Disclosure of Medical Records~~

4 ~~FOR the purpose of requiring that a certain notice regarding data collection for the~~
5 ~~Maryland medical care data base be provided to patients under certain~~
6 ~~circumstances; requiring that the informed consent of a patient be obtained prior to~~
7 ~~collection of the data; providing for a certain exception; specifying the affect of the~~
8 ~~informed consent on any rights or privileges of a patient regarding the data and~~
9 ~~treatment and payment for treatment by certain persons; requiring the Health Care~~
10 ~~Access and Cost Commission to adopt certain regulations; and generally relating to~~
11 ~~requiring a certain notice to be provided to a patient and the receipt of the~~
12 ~~informed consent of a patient prior to collection of certain data for the Maryland~~
13 ~~medical care data base.~~

14 FOR the purpose of establishing a certain limitation on the collection of a certain
15 demographic characteristic of patients contained in the Maryland medical care data
16 base; prohibiting the Health Care Access and Cost Commission from collecting
17 certain data for patient encounters for which the patients elect to self-pay rather
18 than seek reimbursement by certain payors; altering the type of damages related to
19 the disclosure of medical records for which a health care provider or other person is
20 liable under certain circumstances; increasing certain penalties relating to the
21 confidentiality of medical records; requiring a certain workgroup of the Commission
22 to hold certain public hearings related to data collection; requiring the Commission
23 to make a certain report; and generally relating to medical records and the
24 collection of data for the Maryland medical care data base.

25 BY repealing and reenacting, with amendments,

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1 Article - Health - General
2 Section ~~49-1507~~ 4-309 and 19-1507
3 Annotated Code of Maryland
4 (1990 Replacement Volume and 1995 Supplement)

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

7 **Article - Health - General**

8 ~~4-309.~~

9 (a) If a health care provider knowingly refuses to disclose a medical record within
10 a reasonable time after a person in interest requests the disclosure, the health care
11 provider is liable for [actual] damages.

12 (b) A health care provider or any other person is in violation of this subtitle if the
13 health care provider or any other person:

14 (1) Requests or obtains a medical record under false pretenses or through
15 deception; or

16 (2) Discloses a medical record in violation of this subtitle.

17 (c) A health care provider or any other person who knowingly and willfully
18 violates any provision of this subtitle is guilty of a misdemeanor and on conviction is
19 subject to a fine not exceeding [\\$1,000] \$5,000 for the first offense, NOT EXCEEDING
20 \$10,000 FOR THE SECOND OFFENSE, and not exceeding [\\$5,000] \$25,000 for each
21 subsequent conviction for a violation of any provision of this subtitle.

22 (d) A health care provider or any other person who knowingly violates any
23 provision of this subtitle is liable for [actual] damages.

24 19-1507.

25 (a) The Commission shall establish a Maryland medical care data base to compile
26 statewide data on health services rendered by health care practitioners and office
27 facilities selected by the Commission.

28 (b) In addition to any other information the Commission may require by
29 regulation, the medical care data base shall:

30 (1) ~~Collect~~ EXCEPT AS OTHERWISE PROVIDED UNDER SUBSECTION (C)
31 OF THIS SECTION, COLLECT for each type of patient encounter with a health care
32 practitioner or office facility designated by the Commission:

33 (i) The demographic characteristics of the patient, ~~EXCLUDING THE~~
34 ~~PATIENT'S MONTH AND DAY OF BIRTH~~ EXCEPT THAT THE DATE OF BIRTH OF A
35 PATIENT MAY NOT CONTAIN MORE THAN THE MONTH AND YEAR OF BIRTH;

36 (ii) The principal diagnosis;

37 (iii) The procedure performed;

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1 (iv) The date and location of where the procedure was performed;

2 (v) The charge for the procedure;

3 (vi) If the bill for the procedure was submitted on an assigned or
4 nonassigned basis; and

5 (vii) If applicable, a health care practitioner's universal identification
6 number;

7 (2) Collect appropriate information relating to prescription drugs for each
8 type of patient encounter with a pharmacist designated by the Commission; and

9 (3) Collect appropriate information relating to health care costs, utilization,
10 or resources from payors and governmental agencies.

11 ~~(C) (1) PATIENTS WHOSE DATA IS TO BE COLLECTED UNDER THIS SECTION~~
12 ~~SHALL BE NOTIFIED AT THE TIME OF TREATMENT THAT DATA WILL BE COLLECTED~~
13 ~~IN ACCORDANCE WITH THIS SECTION IN THE MANNER REQUIRED BY THE~~
14 ~~COMMISSION BY REGULATION.~~

15 ~~(2) (I) DATA CONCERNING A PATIENT MAY NOT BE COLLECTED~~
16 ~~UNLESS THE PATIENT IS NOTIFIED IN ACCORDANCE WITH PARAGRAPH (1) OF THIS~~
17 ~~SUBSECTION AND THE PATIENT PROVIDES INFORMED CONSENT FOR COLLECTION~~
18 ~~OF THE DATA.~~

19 ~~(II) IF, BY VIRTUE OF THE PHYSICAL OR MENTAL CONDITION OF~~
20 ~~THE PATIENT, THE PATIENT IS NOT ABLE TO PROVIDE INFORMED CONSENT UNDER~~
21 ~~SUBPARAGRAPH (I) OF THIS PARAGRAPH, ANY OTHER PERSON THAT HAS~~
22 ~~AUTHORITY TO CONSENT TO MEDICAL CARE FOR THE PATIENT AS PROVIDED~~
23 ~~UNDER § 5-605 OF THIS ARTICLE OR AS OTHERWISE AUTHORIZED BY LAW MAY~~
24 ~~PROVIDE CONSENT FOR THE COLLECTION OF THE DATA.~~

25 ~~(III) THE INFORMED CONSENT OR SUBSTITUTE CONSENT~~
26 ~~PROVIDED UNDER THIS PARAGRAPH DOES NOT CONSTITUTE A WAIVER OF ANY~~
27 ~~PRIVILEGE THAT WOULD OTHERWISE APPLY TO THE DATA AND THE DENIAL OF~~
28 ~~CONSENT BY THE PATIENT TO THE COLLECTION OF THE DATA MAY NOT BE A BASIS~~
29 ~~FOR REFUSAL OF TREATMENT BY A HEALTH CARE PRACTITIONER OR DENIAL OF~~
30 ~~PAYMENT FOR THE TREATMENT PROVIDED BY A PAYOR.~~

31 (C) THE COMMISSION MAY NOT COLLECT ANY DATA UNDER THIS SECTION
32 FOR ANY PATIENT ENCOUNTER FOR WHICH THE PATIENT ELECTS TO SELF-PAY
33 RATHER THAN SEEK REIMBURSEMENT BY A PAYOR.

34 [(c)] (D) (1) The Commission shall adopt regulations governing ~~NOTICE OF~~
35 ~~COLLECTION, INFORMED CONSENT, AND~~ the access and retrieval of all medical claims
36 data and other information collected and stored in the medical care data base and any
37 claims clearinghouse licensed by the Commission and may set reasonable fees covering
38 the costs of accessing and retrieving the stored data.

39 (2) These regulations shall ensure that confidential or privileged patient
40 information is kept confidential.

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1 (3) Records or information protected by the privilege between a health care
2 practitioner and a patient, or otherwise required by law to be held confidential, shall be
3 filed in a manner that does not disclose the identity of the person protected.

4 [(d)] (E) (1) To the extent practicable, when collecting the data required under
5 subsection (b) of this section, the Commission shall utilize any standardized claim form or
6 electronic transfer system being used by health care practitioners, office facilities, and
7 payors.

8 (2) The Commission shall develop appropriate methods for collecting the
9 data required under subsection (b) of this section on subscribers or enrollees of health
10 maintenance organizations.

11 [(e)] (F) Until the provisions of § 19-1508 of this subtitle are fully implemented,
12 where appropriate, the Commission may limit the data collection under this section.

13 [(f)] (G) By October 1, 1995 and each year thereafter, the Commission shall
14 publish an annual report on those health care services selected by the Commission that:

15 (1) Describes the variation in fees charged by health care practitioners and
16 office facilities on a statewide basis and in each health service area for those health care
17 services; and

18 (2) Describes the geographic variation in the utilization of those health care
19 services.

20 [(g)] (H) In developing the medical care data base, the Commission shall consult
21 with:

22 (1) Representatives of health care practitioners, payors, and hospitals; and

23 (2) Representatives of the Health Services Cost Review Commission and
24 the Health Resources Planning Commission to ensure that the medical care data base is
25 compatible with, may be merged with, and does not duplicate information collected by the
26 Health Services Cost Review Commission hospital discharge data base, or data collected
27 by the Health Resources Planning Commission as authorized in § 19-107 of this title.

28 (i) The Commission, in consultation with the Insurance Commissioner, payors,
29 health care practitioners, and hospitals, may adopt by regulation standards for the
30 electronic submission of data and submission and transfer of the uniform claims forms
31 established under Article 48A, § 490P of the Code.

32 SECTION 2. AND BE IT FURTHER ENACTED, That the Privacy and
33 Confidentiality Workgroup of the Health Care Access and Cost Commission shall hold
34 one or more public hearings on the subject of confidentiality of patient-specific data
35 collected by the Commission for the medical care data base. The Privacy and
36 Confidentiality Workgroup shall consider public testimony in developing
37 recommendations to the Commission. After receiving recommendations from the Privacy
38 and Confidentiality Workgroup, the Commission shall hold one or more additional public
39 hearings. The Commission shall report its findings and recommendations to the Senate
40 Finance Committee and the House Environmental Matters Committee by January 1,
41 1997.

SENATE BILL 702

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1 SECTION ~~2~~ 3, AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 1996.