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**By: Delegates Vallario, Dembrow, Genn, and Doory**

Introduced and read first time: January 24, 1997

Assigned to: Judiciary

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 21, 1997

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CHAPTER \_\_\_\_

1 AN ACT concerning

2 ~~Health Care~~ **Medical, Dental, or Hospital Records and Writings - Admissibility**

3 FOR the purpose of ~~making certain health care records and writings admissible in certain~~  
 4 ~~civil trials in the District Court without presenting certain testimony~~; making certain  
 5 medical, dental, ~~hospital, and other health care~~ and hospital records and writings  
 6 admissible in certain civil trials in the circuit courts without presenting certain  
 7 testimony; requiring certain procedures; altering certain time periods, before the  
 8 beginning of the trial, by which certain parties shall file and serve certain notices;  
 9 clarifying language; providing for the application of this Act; and generally relating  
 10 to the admissibility of health care records and writings to prove certain matters in  
 11 certain civil trials.

12 BY repealing and reenacting, with amendments,  
 13 Article - Courts and Judicial Proceedings  
 14 Section 10-104  
 15 Annotated Code of Maryland  
 16 (1995 Replacement Volume and 1996 Supplement)

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

19 **Article - Courts and Judicial Proceedings**

20 10-104.

21 (a) ~~(1)~~ The provisions of this section apply only to a ~~proceeding in the District~~  
 22 ~~Court OR A CIRCUIT COURT~~ for a claim for:

23 ~~(1)~~ (1) Damages for personal injury;

2

1                   ~~(2)~~ (II) Medical, hospital, or disability benefits under Article 48A, § 539 of  
2 the Code;

3                   ~~(3)~~ (III) First party motor vehicle medical payments under Article 48A, §  
4 541 of the Code; and

5                   ~~(4)~~ (IV) First party health insurance benefits.

6                   (2) SUBJECT TO THE PROVISIONS OF PARAGRAPH (1) OF THIS  
7 SUBSECTION, THE PROVISIONS OF THIS SECTION APPLY TO A PROCEEDING IN:

8                   (I) THE DISTRICT COURT; OR

9                   (II) A CIRCUIT COURT IF:

10                                   1. THE CASE WAS ORIGINALLY FILED IN THE DISTRICT  
11 COURT;

12                                   2. THE CASE WAS TRANSFERRED FROM THE DISTRICT  
13 COURT TO A CIRCUIT COURT; AND

14                                   3. THE AMOUNT IN CONTROVERSY IN THE ACTION IN THE  
15 CIRCUIT COURT DOES NOT EXCEED THE AMOUNT SPECIFIED IN § 4-401 OF THIS  
16 ARTICLE FOR THAT TYPE OF ACTION.

17                   (b) (1) A medical, dental, ~~+~~or~~-~~ hospital,~~OR OTHER HEALTH CARE~~ writing  
18 or record described in this section is admissible under this section if:

19                                   (i) The writing or record is offered in the trial of a civil action in the  
20 District Court ~~OR A CIRCUIT COURT~~;

21                                   (ii) At least ~~30~~ 60 days, except as provided in paragraph (2) of this  
22 subsection, before the beginning of the trial, the party who intends to introduce the  
23 writing or record files with the clerk of the [District Court] COURT and serves on all  
24 other parties as provided under Maryland Rule 1-321:

25   1. Notice of the party's intent to introduce the writing or record  
26 without the support of a physician's, dentist's, ~~+~~or~~-~~ hospital employee's,~~OR OTHER~~  
27 ~~HEALTH CARE PROVIDER'S~~ testimony; and

28   2. A copy of the writing or record; and

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

30                   (2) A party, who receives a notice under paragraph (1) of this subsection  
31 and intends to introduce another medical, dental, ~~+~~or~~-~~ hospital,~~OR OTHER HEALTH~~  
32 ~~CARE~~ writing or record without a physician's, dentist's, ~~+~~or~~-~~ hospital employee's,~~OR~~  
33 ~~OTHER HEALTH CARE PROVIDER'S~~ testimony, shall file and serve a notice of intent and  
34 copy of the writing or record at least ~~45~~ 30 days before the beginning of the trial.

35                   (c) A medical, dental, ~~+~~or~~-~~ hospital,~~OR OTHER HEALTH CARE~~ writing or  
36 record made to document a medical ~~+~~or~~-~~, dental,~~OR OTHER HEALTH~~ condition, a  
37 physician's ~~+~~or~~-~~, dentist's,~~OR OTHER HEALTH CARE PROVIDER'S~~ ~~+~~medical or  
38 dental~~+~~ opinion, or the providing of medical ~~+~~or~~-~~, dental ~~+~~treatment~~+~~,~~OR OTHER~~

1 ~~HEALTH CARE~~ is admissible without the support of the testimony of a physician, dentist,  
2 ~~†or†~~ hospital employee, ~~OR OTHER HEALTH CARE PROVIDER~~ as the maker or the  
3 custodian of the writing or record to prove the existence of a medical, ~~DENTAL, OR~~  
4 ~~OTHER HEALTH OR DENTAL~~ condition, the opinion, and the necessity and the providing  
5 of medical OR DENTAL ~~†treatment†, DENTAL, OR OTHER HEALTH CARE.~~

6 (d) A written statement or bill for medical, dental, ~~†or†~~ hospital, ~~OR OTHER~~  
7 ~~HEALTH CARE~~ expenses is admissible without the support of the testimony of a  
8 physician, dentist, ~~†or†~~ hospital employee, ~~OR OTHER HEALTH CARE PROVIDER~~ as  
9 the maker or the custodian of the statement or bill to prove the amount, fairness, and  
10 reasonableness of the charges for the services or materials provided.

11 (E) NOTHING CONTAINED IN THIS SECTION MAY BE CONSTRUED TO LIMIT  
12 THE RIGHT OF A PARTY TO:

13 (1) REQUEST A SUMMONS TO COMPEL THE ATTENDANCE OF A  
14 WITNESS;

15 (2) EXAMINE A WITNESS WHO APPEARS AT TRIAL; OR

16 (3) ENGAGE IN DISCOVERY AS PROVIDED UNDER THE MARYLAND  
17 RULES.

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed  
19 only prospectively and may not be applied or interpreted to have any effect on or  
20 application to any case filed before the effective date of this Act.

21 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
22 October 1, 1997.