
By: Delegates Kelly, Baldwin, Bissett, Bonsack, Boston, Brinkley, M. Burns, E. Burns, Cadden, Clagett, Conroy, Ciliberti, Crumlin, Cryor, DeCarlo, Doory, Dypski, Edwards, Elliott, Exum, Faulkner, Fulton, Getty, Greenip, Heller, Holt, Jacobs, Kach, Klima, Leopold, McIntosh, McKee, Menes, Mohorovic, Montague, Mossburg, D. Murphy, Muse, O'Donnell, Parker, Pitkin, Rosapepe, Rzepkowski, Schade, Stocksdale, Turner, Walkup, and Workman

Introduced and read first time: January 31, 1997

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **The Patients' Consent Act**

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

12 BY repealing and reenacting, with amendments,
13 Article - Health - General
14 Section 19-1507
15 Annotated Code of Maryland
16 (1996 Replacement Volume)

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

19 **Article - Health - General**

20 19-1507.

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

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

2

1 (1) Collect for each type of patient encounter with a health care practitioner
2 or office facility designated by the Commission:

3 (i) The demographic characteristics of the patient, EXCLUDING THE
4 PATIENT'S MONTH AND DAY OF BIRTH, SOCIAL SECURITY NUMBER, AND LAST 2
5 DIGITS OF A PATIENT'S U.S. POSTAL SERVICE ZIP CODE;

6 (ii) The principal diagnosis;

7 (iii) The procedure performed;

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

9 (v) The charge for the procedure;

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

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

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

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

18 (C) (1) PATIENTS WHOSE DATA IS TO BE COLLECTED UNDER THIS SECTION
19 SHALL BE NOTIFIED AT THE TIME OF THE INITIAL PATIENT ENCOUNTER WITH A
20 HEALTH CARE PRACTITIONER THAT DATA WILL BE COLLECTED IN ACCORDANCE
21 WITH THIS SECTION IN THE MANNER REQUIRED BY THE COMMISSION BY
22 REGULATION.

23 (2) (I) DATA CONCERNING A PATIENT MAY NOT BE COLLECTED
24 UNLESS THE PATIENT IS NOTIFIED IN ACCORDANCE WITH PARAGRAPH (1) OF THIS
25 SUBSECTION AND THE PATIENT PROVIDES CONSENT FOR COLLECTION OF THE
26 DATA.

27 (II) IF, BY VIRTUE OF THE PHYSICAL OR MENTAL CONDITION OF
28 THE PATIENT, THE PATIENT IS NOT ABLE TO PROVIDE CONSENT UNDER
29 SUBPARAGRAPH (I) OF THIS PARAGRAPH, ANY OTHER PERSON THAT HAS
30 AUTHORITY TO CONSENT TO MEDICAL CARE FOR THE PATIENT AS PROVIDED
31 UNDER § 5-605 OF THIS ARTICLE OR AS OTHERWISE AUTHORIZED BY LAW MAY
32 PROVIDE CONSENT FOR THE COLLECTION OF THE DATA.

33 (III) THE CONSENT OR SUBSTITUTE CONSENT PROVIDED UNDER
34 THIS PARAGRAPH DOES NOT CONSTITUTE A WAIVER OF ANY PRIVILEGE THAT
35 WOULD OTHERWISE APPLY TO THE DATA AND THE FAILURE OF THE PATIENT TO
36 CONSENT TO THE COLLECTION OF THE DATA MAY NOT BE A BASIS FOR REFUSAL OF
37 TREATMENT BY A HEALTH CARE PRACTITIONER OR THE DELAY OR DENIAL OF
38 PAYMENT FOR THE TREATMENT PROVIDED BY A PAYOR.

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

6 (2) THE REGULATIONS GOVERNING NOTICE OF COLLECTION AND
7 CONSENT TO BE ADOPTED BY THE COMMISSION UNDER PARAGRAPH (1) OF THIS
8 SUBSECTION SHALL PROVIDE FOR:

9 (I) A STANDARD NOTICE AND CONSENT FORM;

10 (II) THE RIGHT OF A PATIENT TO REVOKE CONSENT FOR THE
11 COLLECTION OF DATA AT ANY TIME PROVIDED THAT THE REVOCATION IS
12 REQUIRED TO BE IN WRITING; AND

13 (III) THE CONSENT FOR THE COLLECTION OF DATA TO BE SECURED
14 AT THE SAME TIME AND IN THE SAME MANNER THAT PATIENT CONSENT IS
15 OBTAINED FOR MEDICAL TREATMENT AND INSURANCE PAYMENT FOR MEDICAL
16 TREATMENT.

17 [(2)] (3) These regulations shall ensure that confidential or privileged
18 patient information is kept confidential.

19 [(3)] (4) Records or information protected by the privilege between a
20 health care practitioner and a patient, or otherwise required by law to be held
21 confidential, shall be filed in a manner that does not disclose the identity of the person
22 protected.

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

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

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

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

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

37 (2) Describes the geographic variation in the utilization of those health care
38 services.

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

4

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

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

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

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 1997.