
By: Senator Hollinger (Chairman, Health Subcommittee) and Senators Craig, Pinsky, Sfikas, Teitelbaum, and Roesser

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Assigned to: Economic and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

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CHAPTER ____

1 AN ACT concerning

2 **Medical Records - Maintenance, Disclosure, and Confidentiality**

3 FOR the purpose of specifying a certain time frame for the disclosure of medical records
4 by health care providers; prohibiting health care providers from refusing to disclose
5 a medical record under specified circumstances; altering a certain ~~penalty~~ penalties;
6 requiring certain individuals to take certain actions before the destruction or
7 transfer of certain medical records; making certain individuals who violate specified
8 provisions of law liable for actual damages; altering a certain definition; making
9 certain stylistic changes; and generally relating to the maintenance, disclosure, and
10 confidentiality of medical records.

11 BY repealing and reenacting, with amendments,
12 Article - Health - General
13 Section 4-301(g), 4-309, and 4-403
14 Annotated Code of Maryland
15 (1994 Replacement Volume and 1996 Supplement)

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

18 **Article - Health - General**

19 4-301.

20 (g) (1) "Medical record" means any oral, written, or other transmission IN ANY
21 FORM OR MEDIUM of information that:

22 (i) Is [written] ENTERED in the record of a patient or recipient;

2

1 (ii) Identifies or can readily be associated with the identity of a patient
2 or recipient; and

3 (iii) Relates to the health care of the patient or recipient.

4 (2) "Medical record" includes any [documentation]:

5 (I) DOCUMENTATION of disclosures of a medical record to any
6 person who is not an employee, agent, or consultant of the health care provider[.

7 (3) "Medical record" includes any file];

8 (II) FILE or record maintained under § 12-505 of the Health
9 Occupations Article by a pharmacy of a prescription order for drugs, medicines, or
10 devices that identifies or may be readily associated with the identity of a patient[.]; AND

11 (III) DOCUMENTATION OF AN EXAMINATION OF A PATIENT
12 REGARDLESS OF WHO:

13 1. REQUESTED THE EXAMINATION; OR

14 2. IS MAKING PAYMENT FOR THE EXAMINATION.

15 4-309.

16 (a) If a health care provider knowingly refuses to disclose a medical record within
17 ~~fa reasonable time]~~ 14 DAYS BUT NO MORE THAN 21 WORKING DAYS after THE DATE
18 a person in interest requests the disclosure, the health care provider is liable for actual
19 damages.

20 (B) A HEALTH CARE PROVIDER MAY NOT REFUSE TO DISCLOSE A MEDICAL
21 RECORD ON THE REQUEST OF A PERSON IN INTEREST BECAUSE OF THE FAILURE OF
22 THE PERSON IN INTEREST TO PAY FOR HEALTH CARE RENDERED BY THE HEALTH
23 CARE PROVIDER.

24 [(b)] (C) A health care provider or any other person is in violation of this subtitle
25 if the health care provider or any other person:

26 (1) Requests or obtains a medical record under false pretenses or through
27 deception; or

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

29 [(c)] (D) A EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (E) OF THIS
30 SECTION, A health care provider or any other person, INCLUDING AN OFFICER OR
31 EMPLOYEE OF A GOVERNMENTAL UNIT, who knowingly and willfully violates any
32 provision of this subtitle is guilty of a misdemeanor and on conviction is subject to ~~fa~~ fine
33 not exceeding \$1,000 for the first offense and not exceeding \$5,000 for each subsequent
34 conviction] ~~THE FOLLOWING PENALTIES~~ for a violation of any provision of this subtitle:.

35 (E) A HEALTH CARE PROVIDER OR ANY OTHER PERSON, INCLUDING AN
36 OFFICER OR EMPLOYEE OF A GOVERNMENTAL UNIT, WHO KNOWINGLY AND
37 WILLFULLY REQUESTS OR OBTAINS A MEDICAL RECORD UNDER FALSE PRETENSES
38 OR THROUGH DECEPTION OR KNOWINGLY AND WILLFULLY DISCLOSES A MEDICAL

3

1 RECORD IN VIOLATION OF THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON
2 CONVICTION IS SUBJECT TO THE FOLLOWING PENALTIES:

3 (1) A FINE NOT EXCEEDING \$50,000, IMPRISONMENT FOR NOT MORE
4 THAN 1 YEAR, OR BOTH;

5 (2) IF THE OFFENSE IS COMMITTED UNDER FALSE PRETENSES, A FINE
6 NOT EXCEEDING \$100,000, IMPRISONMENT FOR NOT MORE THAN 5 YEARS, OR BOTH;
7 AND

8 (3) IF THE OFFENSE IS COMMITTED WITH INTENT TO SELL, TRANSFER,
9 OR USE INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION FOR COMMERCIAL
10 ADVANTAGE, PERSONAL GAIN, OR MALICIOUS HARM, A FINE NOT EXCEEDING
11 \$250,000, IMPRISONMENT FOR NOT MORE THAN 10 YEARS, OR BOTH.

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

14 4-403.

15 (a) In this section, a "health care provider" means:

16 (1) An audiologist;

17 (2) A chiropractor;

18 (3) A dietitian;

19 (4) A dentist;

20 (5) An electrologist;

21 (6) A mortician;

22 (7) A nurse;

23 (8) A nutritionist;

24 (9) An occupational therapist;

25 (10) An optometrist;

26 (11) A physical therapist;

27 (12) A physician;

28 (13) A podiatrist;

29 (14) A professional counselor;

30 (15) A psychologist;

31 (16) A social worker; and

32 (17) A speech-language pathologist.

4

1 (b) Except for a minor patient, unless a patient is notified, a health care provider
2 may not destroy a medical record or laboratory or X-ray report about a patient for 5 years
3 after the record or report is made.

4 (c) In the case of a minor patient, a medical record or laboratory or X-ray report
5 about a minor patient may not be destroyed until the patient attains the age of majority
6 plus 3 years or for 5 years after the record or report is made, whichever is later, unless:

7 (1) The parent or guardian of the minor patient is notified; or

8 (2) If the medical care documented in the record was provided under §
9 20-102(c) or § 20-103(c) of the Health - General Article, the minor patient is notified.

10 (d) The notice under subsections (b) and (c) of this section shall:

11 (1) Be made by first-class mail to the last known address of the patient;

12 (2) Include the date on which the record of the patient shall be destroyed;

13 and

14 (3) Include a statement that the record or synopsis of the record, if wanted,
15 must be retrieved at a designated location within 30 days of the proposed date of
16 destruction.

17 (e) After the death, RETIREMENT, SURRENDER OF THE LICENSE, OR
18 DISCONTINUANCE OF THE PRACTICE OR BUSINESS of a health care provider [who was
19 a sole practitioner], THE HEALTH CARE PROVIDER, the administrator of the estate, or
20 a designee WHO AGREES TO PROVIDE FOR THE MAINTENANCE OF THE MEDICAL
21 RECORDS OF THE PRACTICE OR BUSINESS AND WHO STATES, IN WRITING TO THE
22 APPROPRIATE HEALTH OCCUPATION BOARD WITHIN A REASONABLE TIME, THAT
23 THE RECORDS WILL BE MAINTAINED IN COMPLIANCE WITH THIS SECTION, shall:

24 (1) Forward the notice required in this section before the destruction or
25 transfer of medical records; or

26 (2) Publish a notice in a daily newspaper that is circulated locally for 2
27 consecutive weeks:

28 (i) Stating the date that the medical records will be destroyed or
29 transferred; and

30 (ii) Designating a location, date, and time where the medical records
31 may be retrieved, if wanted.

32 (F) A HEALTH CARE PROVIDER OR ANY OTHER PERSON WHO KNOWINGLY
33 VIOLATES ANY PROVISION OF THIS SUBTITLE IS LIABLE FOR ACTUAL DAMAGES.

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

