
By: Senator Frosh

Introduced and read first time: January 31, 1997

Assigned to: Economic and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 Disclosure of Medical Records - Compulsory Process - Notice to Person in Interest

3 FOR the purpose of requiring a health care provider to disclose a medical record without
4 the authorization of a person in interest in accordance with compulsory process, if
5 the subpoena, summons, warrant, or court order has been served on the person
6 whose records are sought by the party seeking disclosure or production of the
7 records; making a certain exception; defining a certain term; and generally relating
8 to the disclosure of medical records by health care providers.

9 BY repealing and reenacting, with amendments,
10 Article - Health - General
11 Section 4-306
12 Annotated Code of Maryland
13 (1994 Replacement Volume and 1996 Supplement)

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

16 Article - Health General

17 4-306.

18 (a) IN THIS SECTION, "COMPULSORY PROCESS" INCLUDES A SUBPOENA,
19 SUMMONS, WARRANT, OR COURT ORDER THAT APPEARS ON ITS FACE TO HAVE
20 BEEN ISSUED ON LAWFUL AUTHORITY.

21 (B) A health care provider shall disclose a medical record without the
22 authorization of a person in interest:

23 (1) To a unit of State or local government, or to a member of a
24 multidisciplinary team assisting the unit, for purposes of investigation or treatment in a
25 case of suspected abuse or neglect of a child or an adult, subject to the following
26 conditions:

27 (i) The health care provider shall disclose only the medical record of
28 a person who is being assessed in an investigation or to whom services are being provided
29 in accordance with Title 5, Subtitle 7 or Title 14, Subtitle 3 of the Family Law Article;

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1 (ii) The health care provider shall disclose only the information in the
2 medical record that will, in the professional judgment of the provider, contribute to the:

- 3 1. Assessment of risk;
- 4 2. Development of a service plan;
- 5 3. Implementation of a safety plan; or
- 6 4. Investigation of the suspected case of abuse or neglect; and

7 (iii) The medical record may be redisclosed as provided in Article 88A,
8 § 6 of the Code;

9 (2) Subject to the additional limitations for a medical record developed
10 primarily in connection with the provision of mental health services in § 4-307 of this
11 subtitle, to health professional licensing and disciplinary boards, in accordance with a
12 subpoena for medical records for the sole purpose of an investigation regarding:

13 (i) Licensure, certification, or discipline of a health professional; or

14 (ii) The improper practice of a health profession;

15 (3) To a health care provider or the provider's insurer or legal counsel, all
16 information in a medical record relating to a patient or recipient's health, health care, or
17 treatment which forms the basis for the issues of a claim in a civil action initiated by the
18 patient, recipient, or person in interest;

19 (4) Notwithstanding any privilege in law, as needed, to a medical review
20 committee as defined in § 14-501 of the Health Occupations Article or a dental review
21 committee as defined in § 4-501 of the Health Occupations Article;

22 (5) To another health care provider as provided in § 19-308.2 or § 10-807 of
23 this article; or

24 (6) (I) In accordance with compulsory process, IF THE SUBPOENA,
25 SUMMONS, WARRANT, OR COURT ORDER CONTAINS A CERTIFICATION THAT:

26 1. A COPY OF THE SUBPOENA, SUMMONS, WARRANT, OR
27 COURT ORDER HAS BEEN SERVED ON THE PERSON WHOSE RECORDS ARE SOUGHT
28 BY THE PARTY SEEKING THE DISCLOSURE OR PRODUCTION OF THE RECORDS; OR

29 2. SERVICE OF THE SUBPOENA, SUMMONS, WARRANT, OR
30 COURT ORDER HAS BEEN WAIVED BY THE COURT FOR GOOD CAUSE;

31 [a] (II) A stipulation by a patient or person in interest[.]; or

32 [a] (III) A discovery request permitted by law to be made to a court,
33 an administrative tribunal, or a party to a civil court, administrative, or health claims
34 arbitration proceeding.

35 [(b)] (C) When a disclosure is sought under this section:

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1 (1) A written request for disclosure or written confirmation by the health
2 care provider of an oral request that justifies the need for disclosure shall be inserted in
3 the medical record of the patient or recipient; and

4 (2) Documentation of the disclosure shall be inserted in the medical record
5 of the patient or recipient.

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