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By: **Delegates Kelly, Bissett, Bobo, Boston, Branch, E. Burns, M. Burns, Cadden, Conroy, Conway, DeCarlo, Dypski, Eckardt, Edwards, Faulkner, Frush, Greenip, Heller, Holt, Hutchins, Jacobs, Kach, Kagan, Klima, McKee, Minnick, Mohorovic, Montague, Mossburg, D. Murphy, O'Donnell, Pitkin, Rzepkowski, Schade, Snodgrass, Stocksedale, Turner, and Workman**

Introduced and read first time: February 2, 1998  
Assigned to: Environmental Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Patients' Medical Record Privacy 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  
6 collection of the data; providing for a certain exception; specifying the effect of  
7 the consent on any rights or privileges of a patient regarding the data and  
8 treatment and payment for treatment by certain persons; requiring the Health  
9 Care Access and Cost Commission to adopt certain regulations; and generally  
10 relating to requiring a certain notice to be provided to a patient and the receipt  
11 of the consent of a patient prior to collection of certain data for the Maryland  
12 medical care database.

13 BY repealing and reenacting, with amendments,  
14 Article - Health - General  
15 Section 19-1507  
16 Annotated Code of Maryland  
17 (1996 Replacement Volume and 1997 Supplement)

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

20 **Article - Health - General**

21 19-1507.

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

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

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

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

8 (ii) The principal diagnosis;

9 (iii) The procedure performed;

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

11 (v) The charge for the procedure;

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

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

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

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

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

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

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

34 (III) THE CONSENT OR SUBSTITUTE CONSENT PROVIDED UNDER  
35 THIS PARAGRAPH DOES NOT CONSTITUTE A WAIVER OF ANY PRIVILEGE THAT  
36 WOULD OTHERWISE APPLY TO THE DATA AND THE FAILURE OF THE PATIENT TO

1 CONSENT TO THE COLLECTION OF THE DATA MAY NOT BE A BASIS FOR REFUSAL OF  
2 MEDICAL TREATMENT BY A HEALTH CARE PRACTITIONER OR THE DELAY OR DENIAL  
3 OF PAYMENT BY A PAYOR FOR MEDICAL TREATMENT PROVIDED TO THE PATIENT BY  
4 A HEALTH CARE PROVIDER.

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

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

13 (I) A STANDARD NOTICE AND CONSENT FORM;

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

17 (III) THE CONSENT FOR THE COLLECTION OF DATA TO BE SECURED  
18 AT THE SAME TIME AND IN THE SAME MANNER THAT PATIENT CONSENT IS  
19 OBTAINED FOR MEDICAL TREATMENT AND INSURANCE PAYMENT FOR MEDICAL  
20 TREATMENT.

21 [(2)] (3) These regulations shall ensure that confidential or privileged  
22 patient information is kept confidential.

23 [(3)] (4) Records or information protected by the privilege between a  
24 health care practitioner and a patient, or otherwise required by law to be held  
25 confidential, shall be filed in a manner that does not disclose the identity of the  
26 person protected.

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

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

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

37 [(f)] (G) By October 1[, 1995 and each year thereafter,] OF EACH YEAR, the  
38 Commission shall publish an annual report on those health care services selected by  
39 the Commission that:

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

4           (2)       Describes the geographic variation in the utilization of those health  
5 care services.

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

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

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

16       (i)       The Commission, in consultation with the Insurance Commissioner,  
17 payors, health care practitioners, and hospitals, may adopt by regulation standards  
18 for the electronic submission of data and submission and transfer of the uniform  
19 claims forms established under § 15-1003 of the Insurance Article.

20       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
21 October 1, 1998.