
By: **Delegates Hubbard, C. Davis, Morhaim, Frush, Oaks, Schisler, Owings,
Ciliberti, Mohorovic, Nathan-Pulliam, D. Davis, Stull, Elliott,
Klausmeier, Watson, R. Baker, Conroy, Pitkin, and Crumlin**

Introduced and read first time: February 2, 1998

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Medical Care Database - Patient Consent**

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 before
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; providing that within
9 the same health care or office facility a certain notice may be given to a patient
10 only once and that a certain initial consent is ongoing within that facility;
11 specifying that the failure of a health care practitioner to obtain a certain
12 consent is not a ground for a certain cause of action; providing that a certain
13 health care practitioner has no further obligation to the commission if a patient
14 makes a certain election; requiring the Health Care Access and Cost
15 Commission to adopt certain regulations; and generally relating to patient
16 consent to the collection of certain medical data.

17 BY repealing and reenacting, with amendments,
18 Article - Health - General
19 Section 19-1507
20 Annotated Code of Maryland
21 (1996 Replacement Volume and 1997 Supplement)

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

24 **Article - Health - General**

25 19-1507.

26 (a) The Commission shall establish a Maryland medical care data base to
27 compile statewide data on health services rendered by health care practitioners and
28 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;

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
13 identification number;

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

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

18 (C) (1) A PATIENT 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 THE DATA WILL BE COLLECTED IN ACCORDANCE
21 WITH THIS SECTION IN A MANNER THE COMMISSION REQUIRES BY REGULATION.

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

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

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

1 (3) WITHIN THE SAME HEALTH CARE OR OFFICE FACILITY, THE NOTICE
2 REQUIRED BY PARAGRAPH (1) OF THIS SUBSECTION MAY BE GIVEN TO A PATIENT
3 ONLY ONCE AND ANY INITIAL CONSENT BY THE PATIENT SHALL BE DEEMED TO BE
4 ONGOING WITHIN THAT HEALTH CARE OR OFFICE FACILITY.

5 (4) THE FAILURE OF A HEALTH CARE PRACTITIONER TO OBTAIN THE
6 CONSENT REQUIRED BY PARAGRAPH (1) OF THIS SUBSECTION IS NOT A GROUND FOR
7 A CAUSE OF ACTION AGAINST THE HEALTH CARE PRACTITIONER.

8 (5) IF A PATIENT ELECTS NOT TO CONSENT TO THE COLLECTION OF
9 DATA UNDER THIS SECTION, THE HEALTH CARE PRACTITIONER WITH WHOM THE
10 PATIENT HAS THE INITIAL ENCOUNTER HAS NO FURTHER OBLIGATION TO THE
11 COMMISSION CONCERNING THAT PATIENT.

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

17 (2) THE REGULATIONS GOVERNING NOTICE OF COLLECTION AND
18 CONSENT ADOPTED BY THE COMMISSION UNDER PARAGRAPH (1) OF THIS
19 SUBSECTION SHALL PROVIDE FOR:

20 (I) A STANDARD NOTICE AND CONSENT FORM THAT CONSISTS OF
21 A SINGLE PAGE;

22 (II) THE RIGHT OF A PATIENT TO REVOKE CONSENT FOR THE
23 COLLECTION OF DATA AT ANY TIME PROVIDED THAT THE REVOCATION IS IN
24 WRITING; AND

25 (III) THE CONSENT FOR THE COLLECTION OF DATA TO BE SECURED
26 AT THE SAME TIME AND IN THE SAME MANNER THAT PATIENT CONSENT IS
27 OBTAINED FOR MEDICAL TREATMENT AND INSURANCE PAYMENT FOR MEDICAL
28 TREATMENT.

29 [(2)] (3) These regulations shall ensure that confidential or privileged
30 patient information is kept confidential.

31 [(3)] (4) Records or information protected by the privilege between a
32 health care practitioner and a patient, or otherwise required by law to be held
33 confidential, shall be filed in a manner that does not disclose the identity of the
34 person protected.

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

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

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

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

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

13 (2) Describes the geographic variation in the utilization of those health
14 care services.

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

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

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

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

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 July 1, 1998.