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By: Delegates R. Baker, Palumbo, Gordon, Turner, Valderrama, Pitkin, Perry, Opara, Conroy, Vallario, and Comeau

Introduced and read first time: February 6, 1998

Assigned to: Judiciary

A BILL ENTITLED

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_			concerning

2 Evidence - Health Care Records and Writings

- 3 FOR the purpose of making certain health care records and writings admissible in
- 4 certain civil trials without certain testimony; requiring certain procedures;
- 5 defining a certain term; providing for the application of this Act; and generally
- 6 relating to the admissibility of certain health care records and writings to prove
- 7 certain matters in certain civil trials.
- 8 BY repealing and reenacting, without amendments,
- 9 Article Courts and Judicial Proceedings
- 10 Section 3-2A-01(e)
- 11 Annotated Code of Maryland
- 12 (1995 Replacement Volume and 1997 Supplement)
- 13 BY repealing and reenacting, with amendments,
- 14 Article Courts and Judicial Proceedings
- 15 Section 10-104
- 16 Annotated Code of Maryland
- 17 (1995 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 - Courts and Judicial Proceedings

- 21 3-2A-01.
- 22 (e) "Health care provider" means a hospital, a related institution as defined in
- 23 § 19-301 of the Health General Article, a physician, an osteopath, an optometrist, a
- 24 chiropractor, a registered or licensed practical nurse, a dentist, a podiatrist, a
- 25 psychologist, a licensed certified social worker-clinical, and a physical therapist,
- 26 licensed or authorized to provide one or more health care services in Maryland.
- 27 "Health care provider" does not mean any nursing institution conducted by and for

1 those who rely upon treatment by spiritual means through prayer alone in accordance

2	with the tenets and practices of a recognized church or religious denomination.						
3	10-104.						
4 5	(A) IN THIS SECTION, "HEALTH CARE PROVIDER" HAS THE SAME MEANING STATED IN § 3-2A-01 OF THIS ARTICLE.						
6	[(a)](B)(1)	The provisions of this section apply only to a claim for:					
7		(i)	Damages	s for personal injury;			
8 9	19-506 of the Insuran	(ii) ce Article	Medical, hospital, or disability benefits under §§ 19-505 and le;				
10 11	(iii) First party motor vehicle medical payments under §§ 19-509 and 19-510 of the Insurance Article; and						
12		(iv)	First part	y health insurance benefits.			
13 14	(2) Subject to the provisions of paragraph (1) of this subsection, the provisions of this section apply to a proceeding in:						
15		(i)	The Distr	rict Court; or			
16		(ii)	A circuit	court if:			
17			1.	The case was originally filed in the District Court;			
18 19	circuit court; and		2.	The case was transferred from the District Court to a			
	3. The amount in controversy in the action in the circuit court does not exceed the amount specified in § 4-401 of this article for that type of action.						
23 24	[(b)] (C) (1) A [medical, dental, or hospital] HEALTH CARE writing or record described in this section is admissible under this section if:						
25 26	(i) The writing or record is offered in the trial of a civil action in the District Court or a circuit court;						
29	(ii) At least 60 days, except as provided in paragraph (2) of this subsection, before the beginning of the trial, the party who intends to introduce the writing or record files with the clerk of the court and serves on all other parties as provided under Maryland Rule 1-321:						
	1. Notice of the party's intent to introduce the writing or record without the support of a [physician's, dentist's, or hospital employee's] HEALTH CARE PROVIDER'S testimony; and						

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1	2. A copy of the writing or record; and						
2	(iii) The writing or record is otherwise admissible.						
5 6	(2) A party, who receives a notice under paragraph (1) of this subsection and intends to introduce another [medical, dental, or hospital] HEALTH CARE writing or record without a [physician's, dentist's, or hospital employee's] HEALTH CARE PROVIDER'S testimony, shall file and serve a notice of intent and copy of the writing or record at least 30 days before the beginning of the trial.						
10 11 12 13	[(c)] (D) A [medical, dental, or hospital] HEALTH CARE writing or record made to document a medical [or], dental, OR OTHER HEALTH condition, a [physician's or dentist's medical or dental] HEALTH CARE PROVIDER'S opinion, or the providing of [medical or dental treatment] HEALTH CARE is admissible without the support of the testimony of a [physician, dentist, or hospital employee] HEALTH CARE PROVIDER as the maker or the custodian of the writing or record to prove the existence of a medical [or], dental, OR HEALTH condition, the opinion, and the necessity and the providing of [medical or dental treatment] HEALTH CARE.						
18 19	[(d)] (E) A written statement or bill for [medical, dental, or hospital] HEALTH CARE expenses is admissible without the support of the testimony of a [physician, dentist, or hospital employee] HEALTH CARE PROVIDER as the maker or the custodian of the statement or bill to prove the amount, fairness, and reasonableness of the charges for the services or materials provided.						
21 22	[(e)] (F) Nothing contained in this section may be construed to limit the right of a party to:						
23	(1) Request a summons to compel the attendance of a witness;						
24	(2) Examine a witness who appears at trial; or						
25	(3) Engage in discovery as provided under the Maryland Rules.						
	SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed only prospectively and may not be applied or interpreted to have any effect on or application to any case filed before the effective date of this Act.						
29 30	SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 1998.						