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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

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Committee Report: Favorable with amendments

House action: Adopted

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Evidence - ~~Health Care~~ Records and Writings of Health Care Providers**

3 FOR the purpose of making certain ~~health care~~ records and writings of certain health  
4 care providers admissible in certain civil trials without certain testimony;  
5 requiring certain procedures; defining a certain term; providing for the  
6 application of this Act; and generally relating to the admissibility of certain  
7 ~~health care~~ records and writings of certain health care providers to prove certain  
8 matters in certain civil trials.

9 BY repealing and reenacting, without amendments,  
10 Article - Courts and Judicial Proceedings  
11 Section 3-2A-01(e)  
12 Annotated Code of Maryland  
13 (1995 Replacement Volume and 1997 Supplement)

14 BY repealing and reenacting, with amendments,  
15 Article - Courts and Judicial Proceedings  
16 Section 10-104  
17 Annotated Code of Maryland  
18 (1995 Replacement Volume and 1997 Supplement)

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

1 **Article - Courts and Judicial Proceedings**

2 3-2A-01.

3 (e) "Health care provider" means a hospital, a related institution as defined in  
 4 § 19-301 of the Health - General Article, a physician, an osteopath, an optometrist, a  
 5 chiropractor, a registered or licensed practical nurse, a dentist, a podiatrist, a  
 6 psychologist, a licensed certified social worker-clinical, and a physical therapist,  
 7 licensed or authorized to provide one or more health care services in Maryland.  
 8 "Health care provider" does not mean any nursing institution conducted by and for  
 9 those who rely upon treatment by spiritual means through prayer alone in accordance  
 10 with the tenets and practices of a recognized church or religious denomination.

11 10-104.

12 (A) IN THIS SECTION, "HEALTH CARE PROVIDER" HAS THE SAME MEANING  
 13 STATED IN § 3-2A-01 OF THIS ARTICLE.

14 [(a)] (B) (1) The provisions of this section apply only to a claim for:

15 (i) Damages for personal injury;

16 (ii) Medical, hospital, or disability benefits under §§ 19-505 and  
 17 19-506 of the Insurance Article;

18 (iii) First party motor vehicle medical payments under §§ 19-509  
 19 and 19-510 of the Insurance Article; and

20 (iv) First party health insurance benefits.

21 (2) Subject to the provisions of paragraph (1) of this subsection, the  
 22 provisions of this section apply to a proceeding in:

23 (i) The District Court; or

24 (ii) A circuit court if:

25 1. The case was originally filed in the District Court;

26 2. The case was transferred from the District Court to a  
 27 circuit court; and

28 3. The amount in controversy in the action in the circuit  
 29 court does not exceed the amount specified in § 4-401 of this article for that type of  
 30 action.

31 [(b)] (C) (1) A [medical, dental, or hospital] ~~HEALTH CARE~~ writing or record  
 32 OF A HEALTH CARE PROVIDER described in this section is admissible under this  
 33 section if:

1 (i) The writing or record is offered in the trial of a civil action in the  
2 District Court or a circuit court;

3 (ii) At least 60 days, except as provided in paragraph (2) of this  
4 subsection, before the beginning of the trial, the party who intends to introduce the  
5 writing or record files with the clerk of the court and serves on all other parties as  
6 provided under Maryland Rule 1-321:

7 1. Notice of the party's intent to introduce the writing or  
8 record without the support of a [physician's, dentist's, or hospital employee's]  
9 HEALTH CARE PROVIDER'S testimony; and

10 2. A copy of the writing or record; and

11 (iii) The writing or record is otherwise admissible.

12 (2) A party, who receives a notice under paragraph (1) of this subsection  
13 and intends to introduce another [medical, dental, or hospital] ~~HEALTH CARE~~ writing  
14 or record ~~OF A HEALTH CARE PROVIDER~~ without a [physician's, dentist's, or hospital  
15 employee's] ~~HEALTH CARE PROVIDER'S~~ testimony, shall file and serve a notice of  
16 intent and copy of the writing or record at least 30 days before the beginning of the  
17 trial.

18 [(c)] (D) A [medical, dental, or hospital] ~~HEALTH CARE~~ writing or record OF A  
19 HEALTH CARE PROVIDER made to document a medical [or], dental, OR OTHER  
20 HEALTH condition, a [physician's or dentist's medical or dental] ~~HEALTH CARE~~  
21 ~~PROVIDER'S~~ opinion, or the providing of [medical or dental treatment] ~~HEALTH CARE~~  
22 is admissible without the support of the testimony of a [physician, dentist, or hospital  
23 employee] ~~HEALTH CARE PROVIDER~~ as the maker or the custodian of the writing or  
24 record to prove the existence of a medical [or], dental, OR HEALTH condition, the  
25 opinion, and the necessity and the providing of [medical or dental treatment]  
26 ~~HEALTH CARE~~.

27 [(d)] (E) A written statement or bill for [medical, dental, or hospital] HEALTH  
28 CARE expenses is admissible without the support of the testimony of a [physician,  
29 dentist, or hospital employee] ~~HEALTH CARE PROVIDER~~ as the maker or the  
30 custodian of the statement or bill to prove the amount, fairness, and reasonableness  
31 of the charges for the services or materials provided.

32 [(e)] (F) Nothing contained in this section may be construed to limit the right  
33 of a party to:

34 (1) Request a summons to compel the attendance of a witness;

35 (2) Examine a witness who appears at trial; or

36 (3) Engage in discovery as provided under the Maryland Rules.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
2 construed only prospectively and may not be applied or interpreted to have any effect  
3 on or application to any case filed before the effective date of this Act.

4 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
5 October 1, 1998.