
By: **Delegate Frank**

Introduced and read first time: February 13, 1998

Assigned to: Environmental Matters and Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Access to Medical Records**

3 FOR the purpose of repealing the requirement that health care providers disclose
4 certain patient records to other health care providers in medical malpractice
5 cases without patient notice or consent.

6 BY repealing and reenacting, with amendments,
7 Article - Health - General
8 Section 4-306(b)
9 Annotated Code of Maryland
10 (1994 Replacement Volume and 1997 Supplement)

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

13 **Article - Health - General**

14 4-306.

15 (b) A health care provider shall disclose a medical record without the
16 authorization of a person in interest:

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

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

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

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

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

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

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

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

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

17 [(4)] (3) Notwithstanding any privilege in law, as needed, to a medical
18 review committee as defined in § 14-501 of the Health Occupations Article or a dental
19 review committee as defined in § 4-501 of the Health Occupations Article;

20 [(5)] (4) To another health care provider as provided in § 19-308.2 or §
21 10-807 of this article;

22 [(6)] (5) (i) Subject to the additional limitations for a medical record
23 developed primarily in connection with the provision of mental health services in §
24 4-307 of this subtitle and except as otherwise provided in items (2), [(7), and (8)] (6),
25 AND (7) of this subsection, in accordance with compulsory process, if the subpoena,
26 summons, warrant, or court order contains a certification that:

27 1. A copy of the subpoena, summons, warrant, or court order
28 has been served on the person whose records are sought by the party seeking the
29 disclosure or production of the records; or

30 2. Service of the subpoena, summons, warrant, or court order
31 has been waived by the court for good cause;

32 (ii) A stipulation by a patient or person in interest; or

33 (iii) A discovery request permitted by law to be made to a court, an
34 administrative tribunal, or a party to a civil court, administrative, or health claims
35 arbitration proceeding;

1 [(7)] (6) To grand juries, prosecution agencies, law enforcement agencies
2 or their agents or employees to further an investigation or prosecution, pursuant to a
3 subpoena, warrant, or court order for the sole purposes of investigating and
4 prosecuting criminal activity, provided that the prosecution agencies and law
5 enforcement agencies have written procedures to protect the confidentiality of the
6 records; or

7 [(8)] (7) To the Maryland Insurance Administration when conducting an
8 investigation or examination pursuant to Title 2, Subtitle 2 of the Insurance Article,
9 provided that the Insurance Administration has written procedures to maintain the
10 confidentiality of the records.

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