
By: **Delegate Frank**
Introduced and read first time: February 13, 1998
Assigned to: Environmental Matters and Economic Matters

Committee Report: Favorable with amendments
House action: Adopted
Read second time: April 7, 1998

CHAPTER _____

1 AN ACT concerning

2 ~~Access to Medical Records~~ **Disclosure of Medical Records - Health Care**
3 **Provider's Insurer or Legal Counsel**

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

7 FOR the purpose of altering a provision that authorizes a health care provider to
8 disclose a medical record, without the authorization of a person in interest, to
9 any provider's insurer or legal counsel for the purpose of handling a certain
10 action at law; and generally relating to the disclosure of medical records to any
11 health care provider's insurer or legal counsel.

12 BY repealing and reenacting, with amendments,
13 Article - Health - General
14 Section ~~4-306(b)~~ 4-305(b)(1)
15 Annotated Code of Maryland
16 (1994 Replacement Volume and 1997 Supplement)

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

19 **Article - Health - General**

20 ~~4-306.~~

21 ~~(b) A health care provider shall disclose a medical record without the~~
22 ~~authorization of a person in interest.~~

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

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

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

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

16 (iii) The medical record may be redisclosed as provided in Article
17 88A, § 6 of the Code;

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

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

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

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

28 ~~(4)] (3) Notwithstanding any privilege in law, as needed, to a medical~~
29 ~~review committee as defined in § 14-501 of the Health Occupations Article or a dental~~
30 ~~review committee as defined in § 4-501 of the Health Occupations Article;~~

31 ~~(5)] (4) To another health care provider as provided in § 19-308.2 or §~~
32 ~~10-807 of this article;~~

33 ~~(6)] (5) (i) Subject to the additional limitations for a medical record~~
34 ~~developed primarily in connection with the provision of mental health services in §~~
35 ~~4-307 of this subtitle and except as otherwise provided in items (2), ~~(7), and (8)] (6);~~~~

1 AND (7) of this subsection, in accordance with compulsory process, if the subpoena,
2 summons, warrant, or court order contains a certification that:

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

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

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

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

12 ~~[(7)]~~ (6) To grand juries, prosecution agencies, law enforcement agencies
13 or their agents or employees to further an investigation or prosecution, pursuant to a
14 subpoena, warrant, or court order for the sole purposes of investigating and
15 prosecuting criminal activity, provided that the prosecution agencies and law
16 enforcement agencies have written procedures to protect the confidentiality of the
17 records; or

18 ~~[(8)]~~ (7) To the Maryland Insurance Administration when conducting an
19 investigation or examination pursuant to Title 2, Subtitle 2 of the Insurance Article,
20 provided that the Insurance Administration has written procedures to maintain the
21 confidentiality of the records.

22 4-305.

23 (b) A health care provider may disclose a medical record without the
24 authorization of a person in interest:

25 (1) (i) To the provider's authorized employees, agents, medical staff,
26 medical students, or consultants for the sole purpose of offering, providing,
27 evaluating, or seeking payment for health care to patients or recipients by the
28 provider;

29 (ii) To the provider's legal counsel regarding only the information in
30 the medical record that relates to the subject matter of the representation; or

31 (iii) To any provider's insurer or legal counsel, or the authorized
32 employees or agents of a provider's insurer or legal counsel, for the sole purpose of
33 handling a potential or actual claim against any provider IF THE MEDICAL RECORD IS
34 MAINTAINED ON THE CLAIMANT AND RELATES TO THE SUBJECT MATTER OF THE
35 CLAIM;

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

