

SENATE BILL 41

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1998 Regular Session
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(PRE-FILED)

By: **Senator Boozer**
Requested: November 7, 1997
Introduced and read first time: January 14, 1998
Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Workers' Compensation - Appeal Proceedings - Admissibility of Medical,**
3 **Dental, or Hospital Writings or Records**

4 FOR the purpose of authorizing a party who has filed an appeal from a decision by
5 the Workers' Compensation Commission to introduce certain medical, dental, or
6 hospital writings or records without the support of the testimony of a physician,
7 dentist, or hospital employee as the maker or the custodian of the writing or
8 record; providing that the writing or record has been previously introduced
9 before the Commission in the proceeding that is the subject of the appeal; and
10 generally relating to appeal proceedings of the workers' compensation law.

11 BY adding to
12 Article - Labor and Employment
13 Section 9-745.1
14 Annotated Code of Maryland
15 (1991 Volume and 1997 Supplement)

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

18 **Article - Labor and Employment**

19 9-745.1.

20 (A) SUBJECT TO SUBSECTION (C) OF THIS SECTION, A PARTY MAY INTRODUCE
21 AS EVIDENCE IN A DE NOVO APPEAL A MEDICAL, DENTAL, OR HOSPITAL WRITING OR
22 RECORD MADE TO DOCUMENT A MEDICAL OR DENTAL CONDITION, A PHYSICIAN'S OR
23 DENTIST'S MEDICAL OR DENTAL OPINION, OR THE PROVIDING OF MEDICAL OR
24 DENTAL TREATMENT WITHOUT THE SUPPORT OF THE TESTIMONY OF A PHYSICIAN,
25 DENTIST, OR HOSPITAL EMPLOYEE AS THE MAKER OR THE CUSTODIAN OF THE
26 WRITING OR RECORD TO PROVE THE EXISTENCE OF A MEDICAL OR DENTAL
27 CONDITION, THE MEDICAL OR DENTAL OPINION, THE NECESSITY OF MEDICAL OR
28 DENTAL TREATMENT, AND THE PROVIDING OF MEDICAL OR DENTAL TREATMENT.

1 (B) SUBJECT TO SUBSECTION (C) OF THIS SECTION, A PARTY MAY INTRODUCE
2 AS EVIDENCE IN A DE NOVO APPEAL A WRITTEN STATEMENT OR BILL FOR MEDICAL,
3 DENTAL, OR HOSPITAL EXPENSES WITHOUT THE SUPPORT OF THE TESTIMONY OF A
4 PHYSICIAN, DENTIST, OR HOSPITAL EMPLOYEE AS THE MAKER OR THE CUSTODIAN
5 OF THE STATEMENT OR BILL TO PROVE THE AMOUNT, FAIRNESS, AND
6 REASONABLENESS OF THE CHARGES FOR THE SERVICES OR MATERIALS PROVIDED.

7 (C) IN ORDER TO BE CONSIDERED ON APPEAL:

8 (1) THE WRITING OR RECORD MUST HAVE BEEN PREVIOUSLY
9 INTRODUCED IN THE PROCEEDING BEFORE THE COMMISSION THAT IS THE SUBJECT
10 OF THE APPEAL;

11 (2) AT LEAST 30 DAYS BEFORE THE BEGINNING OF THE TRIAL, THE
12 PARTY WHO INTENDS TO INTRODUCE THE WRITING OR RECORD FILES WITH THE
13 CLERK OF THE COURT AND SERVES ON ALL OTHER PARTIES AS PROVIDED UNDER
14 MARYLAND RULES 1-321 AND 1-322:

15 (I) NOTICE OF THE PARTY'S INTENT TO INTRODUCE THE WRITING
16 OR RECORD WITHOUT THE SUPPORT OF A PHYSICIAN'S, DENTIST'S, OR HOSPITAL
17 EMPLOYEE'S TESTIMONY; AND

18 (II) A COPY OF THE WRITING OR RECORD; AND

19 (3) THE WRITING OR RECORD MUST OTHERWISE BE ADMISSIBLE.

20 (D) THIS SECTION MAY NOT BE CONSTRUED TO LIMIT THE RIGHT OF A PARTY
21 TO:

22 (1) INTRODUCE NEW MEDICAL, DENTAL, OR HOSPITAL EVIDENCE; OR

23 (2) PRESENT WITNESSES AT TRIAL.

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