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By: **Senator Munson**

Introduced and read first time: February 5, 1998

Assigned to: Economic and Environmental Affairs

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A BILL ENTITLED

1 AN ACT concerning

2 **Corporate Entities - Maintenance of Medical Records - Surety Bonds**

3 FOR the purpose of requiring the articles of incorporation for certain corporations to  
4 include certain statements; requiring the articles of organization of certain  
5 limited liability corporations to include certain statements; making certain  
6 exceptions; altering a certain definition; defining certain terms; requiring  
7 certain corporate entities to execute a surety bond; specifying requirements for a  
8 certain surety bond; requiring certain corporate entities to appoint an individual  
9 who must take certain actions; authorizing certain individuals to utilize the  
10 proceeds of a surety bond under certain circumstances; establishing a civil  
11 penalty; requiring health occupation boards to levy certain civil fines; requiring  
12 health occupation boards to pay certain fines into certain funds; making certain  
13 individuals subject to the jurisdiction of certain health occupation boards under  
14 specified circumstances; and generally relating to the maintenance of medical  
15 records and the execution of surety bonds by corporate entities.

16 BY repealing and reenacting, with amendments,  
17 Article - Corporations and Associations  
18 Section 2-104(a) and 4A-204(a)  
19 Annotated Code of Maryland  
20 (1993 Replacement Volume and 1997 Supplement)

21 BY repealing and reenacting, with amendments,  
22 Article - Health - General  
23 Section 4-403  
24 Annotated Code of Maryland  
25 (1994 Replacement Volume and 1997 Supplement)

26 BY adding to  
27 Article - Health - General  
28 Section 4-404  
29 Annotated Code of Maryland  
30 (1994 Replacement Volume and 1997 Supplement)

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

3 **Article - Corporations and Associations**

4 2-104.

5 (a) (1) The articles of incorporation shall include:

6 [(1)] (I) The name and address of each incorporator and a statement  
7 that each incorporator is:

8 [(i)] 1. 18 years old or older; and

9 [(ii)] 2. Forming a corporation under the general laws of the State  
10 of Maryland;

11 [(2)] (II) The name of the corporation;

12 [(3)] (III) The purposes for which the corporation is formed;

13 [(4)] (IV) The address of the principal office of the corporation;

14 [(5)] (V) The name and address of the resident agent of the corporation;

15 [(6) (i)] (VI) 1. The total number of shares of stock of all classes which  
16 the corporation has authority to issue;

17 [(ii)] 2. The number of shares of stock of each class;

18 [(iii)] 3. The par value of the shares of stock of each class or a  
19 statement that the shares are without par value; and

20 [(iv)] 4. If there are any shares of stock with par value, the  
21 aggregate par value of all the shares of all classes;

22 [(7)] (VII) If the stock is divided into classes as permitted by § 2-105 of  
23 this subtitle, a description of each class including any preferences, conversion and  
24 other rights, voting powers, restrictions, limitations as to dividends, qualifications,  
25 and terms and conditions of redemption; [and]

26 [(8)] (VIII) The number of directors and the names of those individuals who  
27 will serve as directors until their successors are elected and qualify[.]; AND

28 (IX) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (2) OF THIS  
29 SUBSECTION, IF THE CORPORATION PROVIDES A MEDICAL PROCEDURE OR SERVICE  
30 FOR THE TESTING, DIAGNOSIS, OR TREATMENT OF HUMAN DISEASE OR  
31 DYSFUNCTION, A STATEMENT OF COMPLIANCE WITH § 4-404(C) OF THE HEALTH -  
32 GENERAL ARTICLE, THAT INCLUDES A STATEMENT SIGNED BY THE DESIGNEE WHO  
33 MUST COMPLY WITH § 4-403(E) OF THE HEALTH - GENERAL ARTICLE INDICATING  
34 THAT THE DESIGNEE:



1 LICENSED UNDER TITLE 14 OF THE HEALTH OCCUPATIONS ARTICLE AS THE  
2 MEMBERS OF THE LIMITED LIABILITY COMPANY.

3

**Article - Health - General**

4 4-403.

5 (a) In this section, a "health care provider" means:

6 (1) An acupuncturist;

7 (2) An audiologist;

8 (3) A chiropractor;

9 (4) A dietitian;

10 (5) A dentist;

11 (6) An electrologist;

12 (7) A massage therapist;

13 (8) A mortician;

14 (9) A nurse;

15 (10) A nutritionist;

16 (11) An occupational therapist;

17 (12) An optometrist;

18 (13) A physical therapist;

19 (14) A physician;

20 (15) A podiatrist;

21 (16) A [professional counselor] CORPORATE ENTITY AS DEFINED UNDER  
22 § 4-404 OF THIS SUBTITLE;

23 (17) A PROFESSIONAL COUNSELOR;

24 [(17)] (18) A psychologist;

25 [(18)] (19) A social worker; and

26 [(19)] (20) A speech-language pathologist.

1 (b) Except for a minor patient, unless a patient is notified, a health care  
2 provider may not destroy a medical record or laboratory or X-ray report about a  
3 patient for 5 years after the record or report is made.

4 (c) In the case of a minor patient, a medical record or laboratory or X-ray  
5 report about a minor patient may not be destroyed until the patient attains the age of  
6 majority plus 3 years or for 5 years after the record or report is made, whichever is  
7 later, unless:

8 (1) The parent or guardian of the minor patient is notified; or

9 (2) If the medical care documented in the record was provided under §  
10 20-102(c) or § 20-103(c) of the Health - General Article, the minor patient is notified.

11 (d) The notice under subsections (b) and (c) of this section shall:

12 (1) Be made by first-class mail to the last known address of the patient;

13 (2) Include the date on which the record of the patient shall be destroyed;  
14 and

15 (3) Include a statement that the record or synopsis of the record, if  
16 wanted, must be retrieved at a designated location within 30 days of the proposed  
17 date of destruction.

18 (e) After the death, retirement, surrender of the license, or discontinuance of  
19 the practice or business of a health care provider, the health care provider, the  
20 administrator of the estate, or a designee who agrees to provide for the maintenance  
21 of the medical records of the practice or business and who states, in writing to the  
22 appropriate health occupation board within a reasonable time, that the records will  
23 be maintained in compliance with this section, shall:

24 (1) Forward the notice required in this section before the destruction or  
25 transfer of medical records; or

26 (2) Publish a notice in a daily newspaper that is circulated locally for 2  
27 consecutive weeks:

28 (i) Stating the date that the medical records will be destroyed or  
29 transferred; and

30 (ii) Designating a location, date, and time where the medical  
31 records may be retrieved, if wanted.

32 (f) A health care provider or any other person who knowingly violates any  
33 provision of this subtitle is liable for actual damages.

34 4-404.

35 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
36 INDICATED.

1 (2) "CORPORATE ENTITY" MEANS A BUSINESS ORGANIZATION THAT  
2 PROVIDES A HEALTH CARE SERVICE FOR THE TESTING, DIAGNOSIS, OR TREATMENT  
3 OF HUMAN DISEASE OR DYSFUNCTION AND IS ORGANIZED UNDER:

4 (I) TITLE 2 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE;

5 (II) TITLE 4A OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE;  
6 OR

7 (III) TITLE 5, SUBTITLE 1 OF THE CORPORATIONS AND  
8 ASSOCIATIONS ARTICLE.

9 (3) "HEALTH CARE SERVICE" MEANS A MEDICAL PROCEDURE, TEST, OR  
10 SERVICE PROVIDED TO A PATIENT BY OR THROUGH A CORPORATE ENTITY.

11 (B) (1) A CORPORATE ENTITY THAT PROVIDES A HEALTH CARE SERVICE TO  
12 THE PUBLIC SHALL EXECUTE A SURETY BOND.

13 (2) THE SURETY BOND SHALL BE:

14 (I) IN A FORM THAT THE APPROPRIATE HEALTH OCCUPATION  
15 BOARD APPROVES;

16 (II) WITH A SURETY THAT THE HEALTH OCCUPATION BOARD  
17 APPROVES; AND

18 (III) IN THE AMOUNT OF \$10,000.

19 (C) (1) PRIOR TO PROVIDING A HEALTH CARE SERVICE TO A PATIENT, A  
20 CORPORATE ENTITY SHALL APPOINT A DESIGNEE WHO SHALL COMPLY WITH §  
21 4-403(E) OF THIS SUBTITLE IN THE EVENT OF THE DISSOLUTION OF THE CORPORATE  
22 ENTITY.

23 (2) UPON DISSOLUTION OF A CORPORATE ENTITY, THE DESIGNEE OF  
24 THE CORPORATE ENTITY MAY UTILIZE THE PROCEEDS OF THE SURETY BOND TO  
25 MAINTAIN THE MEDICAL RECORDS AS REQUIRED UNDER § 4-403 OF THIS SUBTITLE.

26 (D) (1) A DESIGNEE OF A CORPORATE ENTITY WHO VIOLATES THIS SECTION  
27 IS SUBJECT TO A CIVIL FINE OF NOT MORE THAN \$10,000 TO BE LEVIED BY THE  
28 APPROPRIATE HEALTH OCCUPATION BOARD.

29 (2) THE HEALTH OCCUPATION BOARD SHALL PAY ANY CIVIL FINE  
30 COLLECTED UNDER THIS SUBSECTION INTO THE APPROPRIATE HEALTH  
31 OCCUPATION BOARD FUND.

32 (3) A DESIGNEE OF A CORPORATE ENTITY SHALL BE SUBJECT TO THE  
33 JURISDICTION OF THE APPROPRIATE HEALTH OCCUPATION BOARD TO DETERMINE A  
34 VIOLATION OF THIS SECTION.

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

