

SENATE BILL 358

Unofficial Copy
J3
SB 813/97 - FIN

1998 Regular Session
8lr0003

By: **Senators Della and Roesser**

Introduced and read first time: February 5, 1998

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **The Patients' Consent Act**

3 FOR the purpose of requiring that a certain notice regarding data collection for the
4 Maryland medical care database be provided to patients under certain
5 circumstances; requiring that the consent of a patient be obtained prior to
6 collection of the data; providing for a certain exception; specifying the effect of
7 the consent on any rights or privileges of a patient regarding the data and
8 treatment and payment for treatment by certain persons; requiring the Health
9 Care Access and Cost Commission to adopt certain regulations; and generally
10 relating to requiring a certain notice to be provided to a patient and the receipt
11 of the consent of a patient prior to collection of certain data for the Maryland
12 medical care database.

13 BY repealing and reenacting, with amendments,
14 Article - Health - General
15 Section 19-1507
16 Annotated Code of Maryland
17 (1996 Replacement Volume and 1997 Supplement)

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

20 **Article - Health - General**

21 19-1507.

22 (a) The Commission shall establish a Maryland medical care data base to
23 compile statewide data on health services rendered by health care practitioners and
24 office facilities selected by the Commission.

25 (b) In addition to any other information the Commission may require by
26 regulation, the medical care data base shall:

27 (1) Collect for each type of patient encounter with a health care
28 practitioner or office facility designated by the Commission:

1 (i) The demographic characteristics of the patient, EXCLUDING
2 THE PATIENT'S MONTH AND DAY OF BIRTH, SOCIAL SECURITY NUMBER, AND LAST 2
3 DIGITS OF A PATIENT'S U.S. POSTAL SERVICE ZIP CODE;

4 (ii) The principal diagnosis;

5 (iii) The procedure performed;

6 (iv) The date and location of where the procedure was performed;

7 (v) The charge for the procedure;

8 (vi) If the bill for the procedure was submitted on an assigned or
9 nonassigned basis; and

10 (vii) If applicable, a health care practitioner's universal
11 identification number;

12 (2) Collect appropriate information relating to prescription drugs for
13 each type of patient encounter with a pharmacist designated by the Commission; and

14 (3) Collect appropriate information relating to health care costs,
15 utilization, or resources from payors and governmental agencies.

16 (C) (1) PATIENTS WHOSE DATA IS TO BE COLLECTED UNDER THIS SECTION
17 SHALL BE NOTIFIED AT THE TIME OF THE INITIAL PATIENT ENCOUNTER WITH A
18 HEALTH CARE PRACTITIONER THAT DATA WILL BE COLLECTED IN ACCORDANCE
19 WITH THIS SECTION IN THE MANNER REQUIRED BY THE COMMISSION BY
20 REGULATION.

21 (2) (I) DATA CONCERNING A PATIENT MAY NOT BE COLLECTED
22 UNLESS THE PATIENT IS NOTIFIED IN ACCORDANCE WITH PARAGRAPH (1) OF THIS
23 SUBSECTION AND THE PATIENT PROVIDES CONSENT FOR COLLECTION OF THE DATA.

24 (II) IF, BY VIRTUE OF THE PHYSICAL OR MENTAL CONDITION OF
25 THE PATIENT, THE PATIENT IS NOT ABLE TO PROVIDE CONSENT UNDER
26 SUBPARAGRAPH (I) OF THIS PARAGRAPH, ANY OTHER PERSON THAT HAS AUTHORITY
27 TO CONSENT TO MEDICAL CARE FOR THE PATIENT AS PROVIDED UNDER § 5-605 OF
28 THIS ARTICLE OR AS OTHERWISE AUTHORIZED BY LAW MAY PROVIDE CONSENT FOR
29 THE COLLECTION OF THE DATA.

30 (III) THE CONSENT OR SUBSTITUTE CONSENT PROVIDED UNDER
31 THIS PARAGRAPH DOES NOT CONSTITUTE A WAIVER OF ANY PRIVILEGE THAT
32 WOULD OTHERWISE APPLY TO THE DATA AND THE FAILURE OF THE PATIENT TO
33 CONSENT TO THE COLLECTION OF THE DATA MAY NOT BE A BASIS FOR REFUSAL OF
34 TREATMENT BY A HEALTH CARE PRACTITIONER OR THE DELAY OR DENIAL OF
35 PAYMENT FOR THE TREATMENT PROVIDED BY A PAYOR.

36 [(c)] (D) (1) The Commission shall adopt regulations governing NOTICE OF
37 COLLECTION, CONSENT, AND the access and retrieval of all medical claims data and

1 other information collected and stored in the medical care data base and any claims
2 clearinghouse licensed by the Commission and may set reasonable fees covering the
3 costs of accessing and retrieving the stored data.

4 (2) THE REGULATIONS GOVERNING NOTICE OF COLLECTION AND
5 CONSENT TO BE ADOPTED BY THE COMMISSION UNDER PARAGRAPH (1) OF THIS
6 SUBSECTION SHALL PROVIDE FOR:

7 (I) A STANDARD NOTICE AND CONSENT FORM;

8 (II) THE RIGHT OF A PATIENT TO REVOKE CONSENT FOR THE
9 COLLECTION OF DATA AT ANY TIME PROVIDED THAT THE REVOCATION IS REQUIRED
10 TO BE IN WRITING; AND

11 (III) THE CONSENT FOR THE COLLECTION OF DATA TO BE SECURED
12 AT THE SAME TIME AND IN THE SAME MANNER THAT PATIENT CONSENT IS
13 OBTAINED FOR MEDICAL TREATMENT AND INSURANCE PAYMENT FOR MEDICAL
14 TREATMENT.

15 [(2)] (3) These regulations shall ensure that confidential or privileged
16 patient information is kept confidential.

17 [(3)] (4) Records or information protected by the privilege between a
18 health care practitioner and a patient, or otherwise required by law to be held
19 confidential, shall be filed in a manner that does not disclose the identity of the
20 person protected.

21 [(d)] (E) (1) To the extent practicable, when collecting the data required
22 under subsection (b) of this section, the Commission shall utilize any standardized
23 claim form or electronic transfer system being used by health care practitioners, office
24 facilities, and payors.

25 (2) The Commission shall develop appropriate methods for collecting the
26 data required under subsection (b) of this section on subscribers or enrollees of health
27 maintenance organizations.

28 [(e)] (F) Until the provisions of § 19-1508 of this subtitle are fully
29 implemented, where appropriate, the Commission may limit the data collection under
30 this section.

31 [(f)] (G) By October 1, 1995 and each year thereafter, the Commission shall
32 publish an annual report on those health care services selected by the Commission
33 that:

34 (1) Describes the variation in fees charged by health care practitioners
35 and office facilities on a statewide basis and in each health service area for those
36 health care services; and

37 (2) Describes the geographic variation in the utilization of those health
38 care services.

1 [(g)] (H) In developing the medical care data base, the Commission shall
2 consult with:

3 (1) Representatives of health care practitioners, payors, and hospitals;
4 and

5 (2) Representatives of the Health Services Cost Review Commission and
6 the Health Resources Planning Commission to ensure that the medical care data base
7 is compatible with, may be merged with, and does not duplicate information collected
8 by the Health Services Cost Review Commission hospital discharge data base, or data
9 collected by the Health Resources Planning Commission as authorized in § 19-107 of
10 this title.

11 (i) The Commission, in consultation with the Insurance Commissioner,
12 payors, health care practitioners, and hospitals, may adopt by regulation standards
13 for the electronic submission of data and submission and transfer of the uniform
14 claims forms established under § 15-1003 of the Insurance Article.

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