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By: **Senator Hollinger (Chairman, Health Subcommittee), Economic and Environmental Affairs Committee, and Senators Craig, Pinsky, Sfikas, and Conway**

Introduced and read first time: February 6, 1998  
Assigned to: Economic and Environmental Affairs

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Committee Report: Favorable with amendments  
Senate action: Adopted  
Read second time: March 24, 1998

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

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

4 FOR the purpose of ~~requiring a health care provider to disclose a medical record with~~  
5 ~~the authorization of a person in interest to any provider's insurer or legal~~  
6 ~~counsel for the purpose of handling a certain action at law against any provider~~  
7 ~~in which the patient or recipient on whom the medical record is kept is not a~~  
8 ~~party to the action on the written authorization of the patient, recipient, or~~  
9 ~~person in interest or in accordance with a certain court order;~~ authorizing a  
10 health care provider to disclose a medical record without the authorization of a  
11 person in interest to any provider's insurer or legal counsel for the purpose of  
12 handling a certain action at law ~~against any provider in which the patient or~~  
13 ~~recipient on whom the medical record is kept is a party to the action and has~~  
14 ~~placed the patient's or recipient's physical or mental condition or functional~~  
15 ~~status at issue, if the request for disclosure is accompanied by a certain~~  
16 ~~certificate;~~ and generally relating to the disclosure of medical records to any  
17 health care provider's insurer or legal counsel.

18 BY repealing and reenacting, with amendments,  
19 Article - Health - General  
20 Section ~~4-303 and~~ 4-305  
21 Annotated Code of Maryland  
22 (1994 Replacement Volume and 1997 Supplement)

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

## Article - Health - General

1  
2 ~~4-303.~~

3 (a) ~~A health care provider shall disclose a medical record on the authorization~~  
4 ~~of a person in interest in accordance with this section.~~

5 (b) ~~Except as otherwise provided in subsection (c) of this section, an~~  
6 ~~authorization shall:~~

7 (1) ~~Be in writing, dated, and signed by the person in interest;~~

8 (2) ~~State the name of the health care provider;~~

9 (3) ~~Identify to whom the information is to be disclosed;~~

10 (4) ~~State the period of time that the authorization is valid, which may~~  
11 ~~not exceed 1 year, except:~~

12 (i) ~~In cases of criminal justice referrals, in which case the~~  
13 ~~authorization shall be valid until 30 days following final disposition; or~~

14 (ii) ~~In cases where the patient on whom the medical record is kept~~  
15 ~~is a resident of a nursing home, in which case the authorization shall be valid until~~  
16 ~~revoked, or for any time period specified in the authorization; and~~

17 (5) ~~Apply only to a medical record developed by the health care provider~~  
18 ~~unless in writing:~~

19 (i) ~~The authorization specifies disclosure of a medical record that~~  
20 ~~the health care provider has received from another provider; and~~

21 (ii) ~~The other provider has not prohibited redisclosure.~~

22 (c) ~~A health care provider shall disclose a medical record on receipt of a~~  
23 ~~preauthorized form that is part of an application for insurance.~~

24 (d) (1) ~~Except in cases of criminal justice referrals, a person in interest may~~  
25 ~~revoke an authorization in writing.~~

26 (2) ~~A revocation of an authorization becomes effective on the date of~~  
27 ~~receipt by the health care provider.~~

28 (3) ~~A disclosure made before the effective date of a revocation is not~~  
29 ~~affected by the revocation.~~

30 (e) ~~A copy of the following shall be entered in the medical record of a patient or~~  
31 ~~recipient:~~

32 (1) ~~A written authorization;~~

1           (2)     Any action taken in response to an authorization; and

2           (3)     Any revocation of an authorization.

3     (F)     ~~A HEALTH CARE PROVIDER SHALL DISCLOSE A MEDICAL RECORD WITH~~  
 4 ~~THE AUTHORIZATION OF A PERSON IN INTEREST TO ANY PROVIDER'S INSURER OR~~  
 5 ~~LEGAL COUNSEL, OR THE AUTHORIZED EMPLOYEES OR AGENTS OF A PROVIDER'S~~  
 6 ~~INSURER OR LEGAL COUNSEL, FOR THE SOLE PURPOSE OF HANDLING A CIVIL OR~~  
 7 ~~CRIMINAL ACTION AGAINST ANY PROVIDER IN WHICH THE PATIENT OR RECIPIENT~~  
 8 ~~ON WHOM THE MEDICAL RECORD IS KEPT IS NOT A PARTY TO THE ACTION;~~

9           (1)     ~~IF THE REQUEST FOR DISCLOSURE IS ACCOMPANIED BY A COPY OF A~~  
 10 ~~CERTIFICATE THAT CONTAINS THE WRITTEN AUTHORIZATION OF THE PATIENT,~~  
 11 ~~RECIPIENT, OR PERSON IN INTEREST OF THE DISCLOSURE; OR~~

12           (2)     ~~IN ACCORDANCE WITH AN ORDER OF A COURT OF COMPETENT~~  
 13 ~~JURISDICTION.~~

14 4-305.

15     (a)     This section may not be construed to impose an obligation on a health care  
 16 provider to disclose a medical record.

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

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

23                   (ii)     To the provider's legal counsel OR INSURER, WHERE THE  
 24 PROVIDER IS ON NOTICE OR REASONABLY BELIEVES THAT THE PROVIDER MAY BE  
 25 THE SUBJECT OF A CLAIM BY THE RECIPIENT regarding only the information in the  
 26 medical record that relates to the subject matter of the representation; or

27                   (iii)    To ~~any~~ THE provider's insurer or legal counsel, or the authorized  
 28 employees or agents of a provider's insurer or legal counsel, for the sole purpose of  
 29 handling a {potential or actual claim} OR CIVIL OR CRIMINAL ACTION against ~~any~~  
 30 THE provider ~~IF:~~

31                               1.     ~~THE PATIENT OR RECIPIENT ON WHOM THE MEDICAL~~  
 32 ~~RECORD IS KEPT IS A PARTY TO THE ACTION;~~

33                               2.     ~~THE PATIENT OR RECIPIENT HAS PLACED THE PATIENT'S~~  
 34 ~~OR RECIPIENT'S PHYSICAL OR MENTAL CONDITION OR FUNCTIONAL STATUS AT~~  
 35 ~~ISSUE IN THE CIVIL OR CRIMINAL ACTION; AND~~

36                               3.     ~~THE REQUEST FOR DISCLOSURE IS ACCOMPANIED BY A~~  
 37 ~~CERTIFICATE STATING THAT:~~



1           (6)     If a health care provider makes a professional determination that an  
2 immediate disclosure is necessary, to provide for the emergency health care needs of a  
3 patient or recipient;

4           (7)     Except if the patient has instructed the health care provider not to  
5 make the disclosure, or if the record has been developed primarily in connection with  
6 the provision of mental health services, to immediate family members of the patient  
7 or any other individual with whom the patient is known to have a close personal  
8 relationship, if made in accordance with good medical or other professional practice;

9           (8)     To organ and tissue procurement personnel under the restrictions of §  
10 5-408 of this article at the request of a physician for a patient whose organs and  
11 tissues may be donated for the purpose of evaluating the patient for possible organ  
12 and tissue donation; or

13          (9)     Subject to subsection (c) of this section, if the purpose of the medical  
14 record disclosure is for the coordination of services and record retention within the  
15 Montgomery County Department of Health and Human Services.

16   (c)    (1)     The disclosure of medical records under subsection (b)(9) of this  
17 section to a person that is not employed by or under contract with the Montgomery  
18 County Department of Health and Human Services shall be conducted in accordance  
19 with this subtitle.

20          (2)     Under provisions of State law regarding confidentiality, the  
21 Montgomery County Department of Health and Human Services shall be considered  
22 to be one agency.

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