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1998 Regular Session 8lr0087

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									
	Committee Report: Favorable with amendments								
	action: Adopted								
Read s	econd time: March 24, 1998								
	CHAPTER								
1 A	N ACT concerning								
2 3	Disclosure of Medical Records - Health Care Provider's Insurer or Legal Counsel								
4 F0	OR 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 10	person in interest or in accordance with a certain court order; authorizing a 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 B	Y repealing and reenacting, with amendments,								
19	Article - Health - General								
20	Section 4-303 and 4-305								
21	Annotated Code of Maryland								

(1994 Replacement Volume and 1997 Supplement)

24 MARYLAND, That the Laws of Maryland read as follows:

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

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(1)

A written authorization;

1 Article - Health - General 2 4 303. 3 A health care provider shall disclose a medical record on the authorization (a) a person in interest in accordance with this section. 5 (b) Except as otherwise provided in subsection (c) of this section, an authorization shall: 6 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 In cases of criminal justice referrals, in which case the 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 is a resident of a nursing home, in which case the authorization shall be valid until revoked, or for any time period specified in the authorization; and 17 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 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 (1)Except in cases of criminal justice referrals, a person in interest may 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:

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1	(2)	Any action taken	in response to an authorization; and
2	(3)	Any revocation o	of an authorization.
5 6 7	THE AUTHORIZATION LEGAL COUNSEL, COUNSE	ON OF A PERSO OR THE AUTHO COUNSEL, FO AGAINST ANY	VIDER SHALL DISCLOSE A MEDICAL RECORD WITH ON IN INTEREST TO ANY PROVIDER'S INSURER OR RIZED EMPLOYEES OR AGENTS OF A PROVIDER'S OR THE SOLE PURPOSE OF HANDLING A CIVIL OR PROVIDER IN WHICH THE PATIENT OR RECIPIENT O IS KEPT IS NOT A PARTY TO THE ACTION:
	CERTIFICATE THAT	F CONTAINS TI	ST FOR DISCLOSURE IS ACCOMPANIED BY A COPY OF A HE WRITTEN AUTHORIZATION OF THE PATIENT, EST OF THE DISCLOSURE; OR
12 13	(2) IJURISDICTION.	IN ACCORDAN	CE WITH AN ORDER OF A COURT OF COMPETENT
14	4-305.		
15 16	(a) This section provider to disclose a management		onstrued to impose an obligation on a health care
17 18	(b) A health authorization of a pers		y disclose a medical record without the
21	medical students, or co	onsultants for the	provider's authorized employees, agents, medical staff, sole purpose of offering, providing, lth care to patients or recipients by the
25	PROVIDER IS ON NO THE SUBJECT OF A	OTICE OR REA CLAIM BY TH	orovider's legal counsel OR INSURER, WHERE THE SONABLY BELIEVES THAT THE PROVIDER MAY BE E RECIPIENT regarding only the information in the ct matter of the representation; or
29	employees or agents of	f a provider's inst	<u>THE</u> provider's insurer or legal counsel, or the authorized urer or legal counsel, for the sole purpose of <u>PR</u> CIVIL OR CRIMINAL ACTION against any
31 32	RECORD IS KEPT IS	1. S A PARTY TO T	THE PATIENT OR RECIPIENT ON WHOM THE MEDICAL THE ACTION;
٠.			THE PATIENT OR RECIPIENT HAS PLACED THE PATIENT'S ENTAL CONDITION OR FUNCTIONAL STATUS AT LACTION; AND
36		3.	THE REQUEST FOR DISCLOSURE IS ACCOMPANIED BY A

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1 2	CRIMINAL ACTION		A.	THE PATIENT OR RECIPIENT IS A PARTY TO THE CIVIL OR				
3 4 5		IYSICAL		THE PATIENT OR RECIPIENT HAS PLACED THE PATIENT'S NTAL CONDITION OR FUNCTIONAL STATUS AS A CIVIL OR CRIMINAL ACTION;				
		e duty un		n access to the medical record signs an Act not to redisclose any patient identifying				
9 10	requirements of an in-			onal or research purposes, subject to the applicable board;				
11		(ii)	Evaluati	on and management of health care delivery systems; or				
12 13	entities;	(iii)	Accredit	ation of a facility by professional standard setting				
16	Subject to the additional limitations for a medical record developed primarily in connection with the provision of mental health services in § 4-307 of this subtitle, to a government agency performing its lawful duties as authorized by an act of the Maryland General Assembly or the United States Congress;							
20	Subject to the additional limitations for a medical record developed primarily in connection with the provision of mental health services in § 4-307 of this subtitle, to another health care provider for the sole purpose of treating the patient or recipient on whom the medical record is kept;							
24 25 26 27 28 29	22 (5) If a claim has been or may be filed by, or with the authorization of a 23 patient or recipient on behalf of the patient or recipient, for covered insureds, covered 24 beneficiaries, or enrolled recipients only, to third party payors and their agents, if the 25 payors or agents have met the applicable provisions of Title 19, Subtitle 13 of the 26 Health - General Article, including nonprofit health service plans, health 27 maintenance organizations, fiscal intermediaries and carriers, the Department of 28 Health and Mental Hygiene and its agents, the United States Department of Health 29 and Human Services and its agents, or any other person obligated by contract or law 30 to pay for the health care rendered for the sole purposes of:							
31		(i)	Submitti	ng a bill to the third party payor;				
32 33	review or predetermin			ble prospective, concurrent, or retrospective utilization overage;				
34 35	of benefits; or	(iii)	Review,	audit, and investigation of a specific claim for payment				
		rance Ar	ticle unde	ating benefit payments in accordance with the er more than 1 sickness and accident, dental, y;				

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(6)

24 October 1, 1998.

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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 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 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 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 with this subtitle. 20 Under provisions of State law regarding confidentiality, the (2) 21 Montgomery County Department of Health and Human Services shall be considered 22 to be one agency. SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect 23