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By: **Senator Hollinger**

Introduced and read first time: February 6, 1998

Assigned to: Economic and Environmental Affairs

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A BILL ENTITLED

1 AN ACT concerning

2 **Health Occupations - Medical Review Committees - Confidential**  
3 **Information**

4 FOR the purpose of adding accreditation organizations to the list of organizations  
5 that are prohibited from obtaining certain confidential information under  
6 certain circumstances; prohibiting the release of certain confidential  
7 information to certain organizations; defining certain terms; and generally  
8 relating to the confidential information of medical review committees.

9 BY repealing and reenacting, with amendments,  
10 Article - Health Occupations  
11 Section 14-501  
12 Annotated Code of Maryland  
13 (1994 Replacement Volume and 1997 Supplement)

14 BY repealing and reenacting, without amendments,  
15 Article - Health Occupations  
16 Section 14-501.1  
17 Annotated Code of Maryland  
18 (1994 Replacement Volume and 1997 Supplement)

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

21 **Article - Health Occupations**

22 14-501.

23 (a) (1) In this section the following words have the meanings indicated.

24 (2) (i) "Alternative health care system" means a system of health care  
25 delivery other than a hospital or related institution.

26 (ii) "Alternative health care system" includes:

- 1 1. A health maintenance organization;
- 2 2. A preferred provider organization;
- 3 3. An independent practice association;
- 4 4. A community health center that is a nonprofit,  
5 freestanding ambulatory health care provider governed by a voluntary board of  
6 directors and that provides primary health care services to the medically indigent; or
- 7 5. Any other health care delivery system that utilizes a  
8 medical review committee.

9 (3) "Medical review committee" means a committee or board that:

10 (i) Is within one of the categories described in subsection (b) of this  
11 section; and

12 (ii) Performs [any of] FUNCTIONS THAT INCLUDE AT LEAST ONE  
13 OF the functions listed in subsection (c) of this section.

14 (4) (i) "Provider of health care" means any person who is licensed by  
15 law to provide health care to individuals.

16 (ii) "Provider of health care" does not include any nursing  
17 institution that is conducted by and for those who rely on treatment by spiritual  
18 means through prayer alone in accordance with the tenets and practices of a  
19 recognized church or religious denomination.

20 (5) "The Maryland Institute for Emergency Medical Services Systems"  
21 means the State agency described in § 13-503 of the Education Article.

22 (b) For purposes of this section, a medical review committee is:

23 (1) A regulatory board or agency established by State or federal law to  
24 license, certify, or discipline any provider of health care;

25 (2) A committee of the Faculty or any of its component societies or a  
26 committee of any other professional society or association composed of providers of  
27 health care;

28 (3) A committee appointed by or established in a local health department  
29 for review purposes;

30 (4) A committee appointed by or established in the Maryland Institute  
31 for Emergency Medical Services Systems;

32 (5) A committee of the medical staff or other committee, including any  
33 risk management, credentialing, or utilization review committee established in  
34 accordance with § 19-319 of the Health - General Article, of a hospital, related  
35 institution, or alternative health care system, if the governing board of the hospital,

1 related institution, or alternative health care system forms and approves the  
2 committee or approves the written bylaws under which the committee operates;

3 (6) Any person, including a professional standard review organization,  
4 who contracts with an agency of this State or of the federal government to perform  
5 any of the functions listed in subsection (c) of this section;

6 (7) Any person who contracts with a provider of health care to perform  
7 any of those functions listed in subsection (c) of this section that are limited to the  
8 review of services provided by the provider of health care;

9 (8) An organization, established by the Maryland Hospital Association,  
10 Inc. and the Faculty, that contracts with a hospital, related institution, or alternative  
11 delivery system to:

12 (i) Assist in performing the functions listed in subsection (c) of this  
13 section; or

14 (ii) Assist a hospital in meeting the requirements of § 19-319(e) of  
15 the Health - General Article;

16 (9) A committee appointed by or established in an accredited health  
17 occupations school; [or]

18 (10) An organization described under § 14-501.1 of this subtitle that  
19 contracts with a hospital, related institution, or health maintenance organization to:

20 (i) Assist in performing the functions listed in subsection (c) of this  
21 section; or

22 (ii) Assist a health maintenance organization in meeting the  
23 requirements of Title 19, Subtitle 7 of the Health - General Article, the National  
24 Committee for Quality Assurance (NCQA), or any other applicable credentialing law  
25 or regulation; OR

26 (11) AN ACCREDITING ORGANIZATION AS DEFINED IN § 14-501.1 OF THIS  
27 SUBTITLE.

28 (c) For purposes of this section, a medical review committee:

29 (1) Evaluates and seeks to improve the quality of health care provided by  
30 providers of health care;

31 (2) Evaluates the need for and the level of performance of health care  
32 provided by providers of health care;

33 (3) Evaluates the qualifications, competence, and performance of  
34 providers of health care; or

35 (4) Evaluates and acts on matters that relate to the discipline of any  
36 provider of health care.

1 (d) (1) Except as otherwise provided in this section, the proceedings,  
2 records, and files of a medical review committee are not discoverable and are not  
3 admissible in evidence in any civil action.

4 (2) The proceedings, records, and files of a medical review committee are  
5 confidential and are not discoverable and are not admissible in evidence in any civil  
6 action arising out of matters that are being reviewed and evaluated by the medical  
7 review committee if requested by the following:

8 (i) The Department of Health and Mental Hygiene to ensure  
9 compliance with the provisions of § 19-319 of the Health - General Article;

10 (ii) A health maintenance organization to ensure compliance with  
11 the provisions of Title 19, Subtitle 7 of the Health - General Article and applicable  
12 regulations; [or]

13 (iii) A health maintenance organization to ensure compliance with  
14 the National Committee for Quality Assurance (NCQA) credentialing requirements;  
15 OR

16 (IV) AN ACCREDITING ORGANIZATION TO ENSURE COMPLIANCE  
17 WITH ACCREDITATION REQUIREMENTS OR THE PROCEDURES AND POLICIES OF THE  
18 ACCREDITING ORGANIZATION.

19 (3) IF THE PROCEEDINGS, RECORDS, AND FILES OF A MEDICAL REVIEW  
20 COMMITTEE ARE REQUESTED BY ANY PERSON FROM ANY OF THE ENTITIES IN  
21 PARAGRAPH (2) OF THIS SUBSECTION:

22 (I) THE PERSON SHALL GIVE THE MEDICAL REVIEW COMMITTEE  
23 NOTICE BY CERTIFIED MAIL OF THE NATURE OF THE REQUEST AND THE MEDICAL  
24 REVIEW COMMITTEE SHALL BE GRANTED A PROTECTIVE ORDER PREVENTING THE  
25 RELEASE OF ITS PROCEEDINGS, RECORDS, AND FILES; AND

26 (II) THE ENTITIES LISTED IN PARAGRAPH (2) OF THIS SUBSECTION  
27 MAY NOT RELEASE ANY OF THE PROCEEDINGS, RECORDS, AND FILES OF THE  
28 MEDICAL REVIEW COMMITTEE.

29 (e) Subsection (d)(1) of this section does not apply to:

30 (1) A civil action brought by a party to the proceedings of the medical  
31 review committee who claims to be aggrieved by the decision of the medical review  
32 committee; or

33 (2) Any record or document that is considered by the medical review  
34 committee and that otherwise would be subject to discovery and introduction into  
35 evidence in a civil trial.

36 (f) A person shall have the immunity from liability described under § 5-637 of  
37 the Courts and Judicial Proceedings Article for any action as a member of the medical

1 review committee or for giving information to, participating in, or contributing to the  
2 function of the medical review committee.

3 (g) Notwithstanding this section, §§ 14-410 and 14-412 of this title apply to:

4 (1) The Board; and

5 (2) Any other entity, to the extent that it is acting in an investigatory  
6 capacity for the Board.

7 14-501.1.

8 (a) (1) In this section the following words have the meanings indicated.

9 (2) "Accrediting organization" means an organization that awards  
10 accreditation to managed care organizations, other health care organizations,  
11 hospitals, or other related institutions.

12 (3) "Primary source verification" means a procedure used by a hospital,  
13 related institution, or health maintenance organization to ensure the truth and  
14 accuracy of objective verifiable information submitted to the hospital, related  
15 institution, or health maintenance organization by a physician who is applying for  
16 practice privileges, entering into contract, or seeking employment with a hospital,  
17 related institution, or health maintenance organization.

18 (b) On or before January 1, 1997, the Secretary shall adopt regulations for a  
19 credentialing primary source verification information system that is available for all  
20 physicians licensed under the Health Occupations Article.

21 (c) After the Secretary reviews the standards of appropriate accrediting  
22 organizations and consults with the Faculty, the Maryland Hospital Association, and  
23 the Maryland Association of Health Maintenance Organizations, the regulations  
24 adopted by the Secretary under subsection (b) of this section shall:

25 (1) Provide for a procedure for the collection and release of primary  
26 source verification information;

27 (2) Include standards by which any organization, including the Faculty,  
28 may qualify to perform primary source verification; and

29 (3) Provide for the monitoring by the Secretary of any organization that  
30 qualifies to administer primary source verification.

31 (d) The Secretary may authorize hospitals, related institutions, or health  
32 maintenance organizations to rely on primary source verification information  
33 provided by an organization qualified to perform primary source verification in  
34 accordance with regulations adopted by the Secretary under this section instead of  
35 requiring a hospital, related institution, or health maintenance organization to use its  
36 own primary source verification procedure to test the truth and accuracy of  
37 information submitted.

1 (e) This section does not prohibit a hospital, related institution, or health  
2 maintenance organization from using its own primary source verification procedure.

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