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By: **Delegate Vallario**

Introduced and read first time: February 11, 1999

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Evidence - Health Care Records and Writings**

3 FOR the purpose of altering the definition of the term "health care provider" to  
4 include certain health care facilities for the purpose of making certain records  
5 and writings of the health care facilities admissible in certain civil trials without  
6 certain testimony; providing that certain evidentiary provisions apply to certain  
7 cases originally filed in a circuit court; providing for the application of this Act;  
8 and generally relating to the admissibility of certain health care records and  
9 writings to prove certain matters in certain civil trials.

10 BY repealing and reenacting, with amendments,

11 Article - Courts and Judicial Proceedings

12 Section 10-104

13 Annotated Code of Maryland

14 (1998 Replacement Volume)

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

17 **Article - Courts and Judicial Proceedings**

18 10-104.

19 (a) (1) In this section, "health care provider" has the same meaning stated in  
20 § 3-2A-01 of this article.

21 (2) "HEALTH CARE PROVIDER" INCLUDES:

22 (I) A HOSPITAL, AS DEFINED IN § 19-301 OF THE HEALTH -  
23 GENERAL ARTICLE;

24 (II) A RELATED INSTITUTION, AS DEFINED IN § 19-301 OF THE  
25 HEALTH - GENERAL ARTICLE;

26 (III) AN AMBULATORY SURGICAL FACILITY;

1 (IV) AN INPATIENT FACILITY THAT IS ORGANIZED PRIMARILY IN  
2 THE REHABILITATION OF DISABLED PERSONS, THROUGH AN INTEGRATED PROGRAM  
3 OF MEDICAL AND OTHER SERVICE PROVIDED UNDER COMPETENT PROFESSIONAL  
4 SUPERVISION;

5 (V) A HOME HEALTH AGENCY, AS DEFINED IN § 19-401 OF THE  
6 HEALTH - GENERAL ARTICLE; OR

7 (VI) ANY HEALTH INSTITUTION, SERVICE, OR PROGRAM FOR WHICH  
8 A CERTIFICATE OF NEED IS REQUIRED UNDER TITLE 19 OF THE HEALTH - GENERAL  
9 ARTICLE.

10 (b) (1) The provisions of this section apply only to a claim for:

11 (i) Damages for personal injury;

12 (ii) Medical, hospital, or disability benefits under §§ 19-505 and  
13 19-506 of the Insurance Article;

14 (iii) First party motor vehicle medical payments under §§ 19-509  
15 and 19-510 of the Insurance Article; and

16 (iv) First party health insurance benefits.

17 (2) Subject to the provisions of paragraph (1) of this subsection, the  
18 provisions of this section apply to a proceeding in:

19 (i) The District Court; or

20 (ii) A circuit court if:

21 1. The case was originally filed in the District Court;

22 2. The case was transferred from the District Court to a  
23 circuit court; and

24 3. The] THE amount in controversy in the action in the  
25 circuit court does not exceed the amount specified in § 4-401 of this article for that  
26 type of action.

27 (c) (1) A writing or record of a health care provider described in this section  
28 is admissible under this section if:

29 (i) The writing or record is offered in the trial of a civil action in the  
30 District Court or a circuit court;

31 (ii) At least 60 days, except as provided in paragraph (2) of this  
32 subsection, before the beginning of the trial, the party who intends to introduce the  
33 writing or record files with the clerk of the court and serves on all other parties as  
34 provided under Maryland Rule 1-321:

1                                   1.       Notice of the party's intent to introduce the writing or  
2 record without the support of a health care provider's testimony; and

3                                   2.       A copy of the writing or record; and

4                                   (iii)    The writing or record is otherwise admissible.

5                   (2)       A party, who receives a notice under paragraph (1) of this subsection  
6 and intends to introduce another writing or record of a health care provider without a  
7 health care provider's testimony, shall file and serve a notice of intent and copy of the  
8 writing or record at least 30 days before the beginning of the trial.

9       (d)       A writing or record of a health care provider made to document a medical,  
10 dental, or other health condition, a health care provider's opinion, or the providing of  
11 health care is admissible without the support of the testimony of a health care  
12 provider as the maker or the custodian of the writing or record to prove the existence  
13 of a medical, dental, or health condition, the opinion, and the necessity and the  
14 providing of health care.

15       (e)       A written statement or bill for health care expenses is admissible without  
16 the support of the testimony of a health care provider as the maker or the custodian  
17 of the statement or bill to prove the amount, fairness, and reasonableness of the  
18 charges for the services or materials provided.

19       (f)       Nothing contained in this section may be construed to limit the right of a  
20 party to:

21                   (1)       Request a summons to compel the attendance of a witness;

22                   (2)       Examine a witness who appears at trial; or

23                   (3)       Engage in discovery as provided under the Maryland Rules.

24       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
25 construed only prospectively and may not be applied or interpreted to have any effect  
26 on or application to any case filed before the effective date of this Act.

27       SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
28 October 1, 1999.