
By: **Delegates Valderrama and Vallario**
Introduced and read first time: February 11, 1999
Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Workers' Compensation - Appeal Proceedings - Admissibility of Health Care**
3 **Writings or Records**

4 FOR the purpose of authorizing a party who has filed an appeal from a decision by
5 the Workers' Compensation Commission to introduce certain health care
6 writings or records without the support of the testimony of a health care
7 provider as the maker or the custodian of the writing or record under certain
8 circumstances; providing for certain procedures; defining a certain term;
9 providing for the application of this Act; and generally relating to health care
10 evidence in appeal proceedings under the workers' compensation law.

11 BY adding to
12 Article - Labor and Employment
13 Section 9-745.1
14 Annotated Code of Maryland
15 (1991 Volume and 1998 Supplement)

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

18 **Article - Labor and Employment**

19 9-745.1.

20 (A) (1) IN THIS SECTION "HEALTH CARE PROVIDER" HAS THE SAME
21 MEANING STATED IN § 3-2A-01 OF THE COURTS AND JUDICIAL PROCEEDINGS
22 ARTICLE.

23 (2) "HEALTH CARE PROVIDER" INCLUDES A HOSPITAL, AS DEFINED IN §
24 19-301 OF THE HEALTH - GENERAL ARTICLE.

25 (B) THIS SECTION APPLIES ONLY TO APPEALS FROM AN AWARD OF
26 DISABILITY BENEFITS NOT EXCEEDING \$25,000.

27 (C) SUBJECT TO SUBSECTION (E) OF THIS SECTION, A PARTY MAY INTRODUCE
28 AS EVIDENCE IN A DE NOVO APPEAL A WRITING OR RECORD OF A HEALTH CARE

1 PROVIDER MADE TO DOCUMENT A MEDICAL, DENTAL, OR OTHER HEALTH
2 CONDITION, A HEALTH CARE PROVIDER'S OPINION, OR THE PROVIDING OF HEALTH
3 CARE WITHOUT THE SUPPORT OF THE TESTIMONY OF A HEALTH CARE PROVIDER AS
4 THE MAKER OR THE CUSTODIAN OF THE WRITING OR RECORD TO PROVE THE
5 EXISTENCE OF A MEDICAL, DENTAL, OR HEALTH CONDITION, THE OPINION, THE
6 NECESSITY, AND THE PROVIDING OF HEALTH CARE.

7 (D) SUBJECT TO SUBSECTION (E) OF THIS SECTION, A PARTY MAY INTRODUCE
8 AS EVIDENCE IN A DE NOVO APPEAL A WRITTEN STATEMENT OR BILL FOR HEALTH
9 CARE EXPENSES WITHOUT THE SUPPORT OF THE TESTIMONY OF A HEALTH CARE
10 PROVIDER AS THE MAKER OR THE CUSTODIAN OF THE STATEMENT OR BILL TO
11 PROVE THE AMOUNT, FAIRNESS, AND REASONABLENESS OF THE CHARGES FOR THE
12 SERVICES OR MATERIALS PROVIDED.

13 (E) IN ORDER TO BE ADMISSIBLE ON APPEAL UNDER THIS SECTION:

14 (1) THE WRITING OR RECORD SHALL HAVE BEEN PREVIOUSLY
15 INTRODUCED IN THE PROCEEDING BEFORE THE COMMISSION THAT IS THE SUBJECT
16 OF THE APPEAL;

17 (2) AT LEAST 30 DAYS BEFORE THE BEGINNING OF THE TRIAL, THE
18 PARTY WHO INTENDS TO INTRODUCE THE WRITING OR RECORD:

19 (I) SHALL SERVE NOTICE OF THE PARTY'S INTENT TO INTRODUCE
20 THE WRITING OR RECORD WITHOUT THE SUPPORT OF A HEALTH CARE PROVIDER'S
21 TESTIMONY AND A COPY OF THE WRITING OR RECORD ON ALL OTHER PARTIES AS
22 PROVIDED UNDER MARYLAND RULES 1-321 AND 1-322; AND

23 (II) SHALL FILE NOTICE OF SERVICE FROM THE COURT; AND

24 (3) THE WRITING OR RECORD SHALL OTHERWISE BE ADMISSIBLE.

25 (F) THIS SECTION MAY NOT BE CONSTRUED TO LIMIT THE RIGHT OF A PARTY
26 TO:

27 (1) INTRODUCE NEW HEALTH CARE EVIDENCE; OR

28 (2) PRESENT WITNESSES AT TRIAL.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
30 construed only prospectively and may not be applied or interpreted to have any effect
31 on or application to any appeal from the Workers' Compensation Commission filed
32 before the effective date of this Act.

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