
By: **Delegates Montague, Vallario, Griffith, and Valderrama**
Introduced and read first time: February 12, 1999
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Courts - Settlements and Releases - Limited Prohibitions**

3 FOR the purpose of increasing the period of time after an occurrence that causes an
4 injury during which certain persons may not attempt to or negotiate a
5 settlement, obtain a release of liability, or obtain certain statements, with
6 respect to certain injured patients; providing that a settlement entered into, a
7 certain release made, or a certain statement provided by certain injured
8 patients may not be used for certain purposes if obtained contrary to the
9 provisions of this Act; prohibiting a person whose interest is or may become
10 adverse to a prospective claimant from making certain communications to a
11 prospective claimant for a specified period of time after an accident or disaster
12 involving the claimant or a relative of the claimant; providing a certain
13 exception; providing certain penalties for certain communications in violation of
14 the provisions of this Act; providing for the application of this Act; making
15 provisions of this Act severable; and generally relating to certain acts and
16 communications involving certain injured patients and certain prospective
17 claimants.

18 BY repealing and reenacting, with amendments,
19 Article - Courts and Judicial Proceedings
20 Section 5-401.1(b) and (c)
21 Annotated Code of Maryland
22 (1998 Replacement Volume)

23 BY adding to
24 Article - Courts and Judicial Proceedings
25 Section 5-401.2
26 Annotated Code of Maryland
27 (1998 Replacement Volume)

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

1 **Article - Courts and Judicial Proceedings**

2 5-401.1.

3 (b) A person whose interest is or may become adverse to an injured individual
4 who is confined to a hospital or sanitarium as a patient may not, within [15] 30 days
5 from the date of the occurrence causing the patient's injury:

6 (1) Negotiate or attempt to negotiate a settlement with the patient;

7 (2) Obtain or attempt to obtain a general release of liability from the
8 patient; or

9 (3) Obtain or attempt to obtain any statement, either written or oral
10 from the patient, for use in negotiating a settlement or obtaining a release.

11 (c) Any settlement agreement entered into [or], any general release of
12 liability made, OR ANY STATEMENT PROVIDED by any individual who is confined in a
13 hospital or sanitarium after the individual incurs a personal injury may not be used
14 in evidence in any court action relating to the injury and may not be used for any
15 purpose in any legal action in connection with the injury if the settlement agreement
16 [or], release, OR STATEMENT is obtained contrary to the provisions of subsection (b)
17 of this section.

18 5-401.2.

19 (A) THIS SECTION APPLIES TO THE FOLLOWING FORMS OF COMMUNICATION
20 TO A PROSPECTIVE CLAIMANT FOR THE PURPOSE OF NEGOTIATING OR ATTEMPTING
21 TO NEGOTIATE A SETTLEMENT, OBTAINING OR ATTEMPTING TO OBTAIN A GENERAL
22 RELEASE OF LIABILITY FROM THE PROSPECTIVE CLAIMANT, OR OBTAINING OR
23 ATTEMPTING TO OBTAIN A WRITTEN OR ORAL STATEMENT FROM THE PROSPECTIVE
24 CLAIMANT FOR USE IN NEGOTIATING A SETTLEMENT OR OBTAINING A RELEASE:

25 (1) AN IN PERSON COMMUNICATION;

26 (2) AN AUDIO RECORDING;

27 (3) A COMPUTER ON-LINE TRANSMISSION;

28 (4) A FACSIMILE TRANSMISSION;

29 (5) A LETTER OR OTHER FORM OF WRITTEN COMMUNICATION;

30 (6) A TELEGRAPHIC TRANSMISSION;

31 (7) A TELEPHONIC TRANSMISSION; AND

32 (8) A VIDEO RECORDING.

33 (B) THIS SECTION DOES NOT APPLY TO A COMMUNICATION MADE TO A
34 PROSPECTIVE CLAIMANT AT THE REQUEST OF THE PROSPECTIVE CLAIMANT.

1 (C) A PERSON WHOSE INTEREST IS OR MAY BECOME ADVERSE TO A
2 PROSPECTIVE CLAIMANT MAY NOT COMMUNICATE, DIRECTLY OR THROUGH AN
3 AGENT, TO A PROSPECTIVE CLAIMANT, IF THE COMMUNICATION CONCERNS AN
4 ACTION OR CLAIM FOR PERSONAL INJURY OR WRONGFUL DEATH, OR OTHERWISE
5 RELATES TO AN ACCIDENT OR DISASTER INVOLVING THE PROSPECTIVE CLAIMANT
6 TO WHOM THE COMMUNICATION IS SENT OR THE PROSPECTIVE CLAIMANT'S
7 RELATIVE, UNLESS THE ACCIDENT OR DISASTER OCCURRED MORE THAN 30 DAYS
8 BEFORE THE DATE THE COMMUNICATION IS SENT.

9 (D) A PERSON WHO VIOLATES A PROVISION OF THIS SECTION IS GUILTY OF A
10 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000
11 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

12 SECTION 2. AND BE IT FURTHER ENACTED, That the provisions of § 5-401
13 of the Courts Article as enacted by this Act shall be construed only prospectively and
14 may not be applied or interpreted to have any effect on or application to any act by a
15 person before the effective date of this Act.

16 SECTION 3. AND BE IT FURTHER ENACTED, That if any provision of this
17 Act or the application thereof to any person or circumstance is held invalid for any
18 reason in a court of competent jurisdiction, the invalidity does not affect other
19 provisions or any other application of this Act which can be given effect without the
20 invalid provision or application, and for this purpose the provisions of this Act are
21 declared severable.

22 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 1999.