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By: **Delegates Zirkin and Vallario**

Introduced and read first time: February 4, 2000

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 expanding the definition of the term "health care provider" to  
4 include certain health care facilities, agencies, institutions, services, programs,  
5 and other health care providers licensed in another state for the purpose of  
6 making certain records and writings of the health care facilities, agencies,  
7 institutions, services, programs, and other health care providers admissible in  
8 certain civil trials without certain testimony; defining a certain term; clarifying  
9 language; providing for application of this Act; and generally relating to the  
10 admissibility of certain health care records and writings as evidence of certain  
11 matters in certain civil trials.

12 BY repealing and reenacting, without amendments,  
13 Article - Courts and Judicial Proceedings  
14 Section 3-2A-01(e)  
15 Annotated Code of Maryland  
16 (1998 Replacement Volume and 1999 Supplement)

17 BY repealing and reenacting, with amendments,  
18 Article - Courts and Judicial Proceedings  
19 Section 10-104  
20 Annotated Code of Maryland  
21 (1998 Replacement Volume and 1999 Supplement)

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

24 **Article - Courts and Judicial Proceedings**

25 3-2A-01.

26 (e) "Health care provider" means a hospital, a related institution as defined in  
27 § 19-301 of the Health - General Article, a physician, an osteopath, an optometrist, a  
28 chiropractor, a registered or licensed practical nurse, a dentist, a podiatrist, a

1 psychologist, a licensed certified social worker-clinical, and a physical therapist,  
2 licensed or authorized to provide one or more health care services in Maryland.  
3 "Health care provider" does not mean any nursing institution conducted by and for  
4 those who rely upon treatment by spiritual means through prayer alone in accordance  
5 with the tenets and practices of a recognized church or religious denomination.

6 10-104.

7 (a) (1) In this section[,] THE FOLLOWING TERMS HAVE THE MEANINGS  
8 INDICATED.

9 (2) ["health] "HEALTH care provider" means:

10 [(1)] (I) A health care provider, as defined in § 3-2A-01 of this article;

11 [(2)] (II) An ambulatory surgical facility;

12 [(3)] (III) An inpatient facility that is organized primarily in the  
13 rehabilitation of disabled persons, through an integrated program of medical and  
14 other service provided under competent professional supervision;

15 [(4)] (IV) A home health agency, as defined in § 19-401 of the Health -  
16 General Article; [or]

17 [(5)] (V) Any health institution, service, or program for which a  
18 certificate of need is required under Title 19 of the Health - General Article; OR

19 (VI) A HEALTH CARE PROVIDER WHO IS:

20 1. SUBSTANTIALLY SIMILAR TO A HEALTH CARE PROVIDER  
21 DESCRIBED IN ITEMS (I) THROUGH (V) OF THIS PARAGRAPH; AND

22 2. LICENSED AS A HEALTH CARE PROVIDER IN ANOTHER  
23 STATE.

24 (3) "STATE" MEANS A STATE OF THE UNITED STATES OR THE DISTRICT  
25 OF COLUMBIA.

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

27 (i) Damages for personal injury;

28 (ii) Medical, hospital, or disability benefits under §§ 19-505 and  
29 19-506 of the Insurance Article;

30 (iii) First party motor vehicle [medical payments] BENEFITS under  
31 §§ 19-509 and 19-510 of the Insurance Article; and

32 (iv) First party health insurance benefits.

1           (2)     This section does not apply to an action for damages filed under Title  
2 3, Subtitle 2A of this article.

3           (3)     Subject to the provisions of paragraphs (1) and (2) of this subsection,  
4 the provisions of this section apply to a proceeding in:

5           (i)     The District Court; or

6           (ii)    A circuit court if the amount in controversy in the action in the  
7 circuit court does not exceed the amount specified in § 4-401 of this article for that  
8 type of action.

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

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

13           (ii)    At least 60 days, except as provided in paragraph (2) of this  
14 subsection, before the beginning of the trial, the party who intends to introduce the  
15 writing or record:

16                   1.     Serves notice of the party's intent to introduce the writing  
17 or record without the support of a health care provider's testimony, a list that  
18 identifies each writing or record, and a copy of the writing or record on all other  
19 parties as provided under Maryland Rule 1-321; and

20                   2.     Files notice of service and the list that identifies each  
21 writing or record with the court; and

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

23       (2)     A party who receives a notice under paragraph (1) of this subsection  
24 and intends to introduce another writing or record of a health care provider without a  
25 health care provider's testimony shall:

26           (i)     Serve a notice of intent, a list that identifies each writing or  
27 record, and a copy of the writing or record at least 30 days before the beginning of the  
28 trial; and

29           (ii)    File notice of service and the list that identifies each writing or  
30 record with the court.

31       (3)     The list required under paragraphs (1) and (2) of this subsection shall  
32 include:

33           (i)     The name of the health care provider for each writing or record;  
34 and

35           (ii)    The date of each writing or record of the health care provider or  
36 each date of treatment by the health care provider.

1 (d) (1) A writing or record of a health care provider made to document a  
2 medical, dental, or other health condition, a health care provider's opinion, or the  
3 providing of health care is admissible without the support of the testimony of a health  
4 care provider as the maker or the custodian of the writing or record as evidence of the  
5 existence of a medical, dental, or health condition, the opinion, and the necessity and  
6 the providing of health care.

7 (2) A finder of fact may attach whatever weight to a writing or record  
8 that the finder of fact deems appropriate.

9 (e) (1) A written statement or bill for health care expenses is admissible  
10 without the support of the testimony of a health care provider as the maker or the  
11 custodian of the statement or bill as evidence of the amount, fairness, and  
12 reasonableness of the charges for the services or materials provided.

13 (2) A finder of fact may attach whatever weight to a writing or record  
14 that the finder of fact deems appropriate.

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

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

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

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

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

23 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
24 October 1, 2000.