
By: **Delegate McHale**

Introduced and read first time: February 7, 2000

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Workers' Compensation - Appeals - Admission of Health Care Writings,**
3 **Records, Written Statements, and Bills**

4 FOR the purpose of allowing, for certain purposes and under certain circumstances,
5 the admission in a workers' compensation de novo appeal of certain writings,
6 records, written statements, and bills of a health care provider without the
7 supporting testimony of the custodian of the writing, record, written statement,
8 or bill; establishing certain procedures for admission without supporting
9 testimony; establishing procedures for making objections to admission without
10 supporting testimony; providing for the construction and application of this Act;
11 defining a certain term; and generally relating to the admission of certain
12 writings, records, written statements, and bills of a health care provider without
13 the supporting testimony of the custodian.

14 BY adding to
15 Article - Labor and Employment
16 Section 9-745.1
17 Annotated Code of Maryland
18 (1999 Replacement Volume)

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

21 **Article - Labor and Employment**

22 9-745.1.

23 (A) (1) IN THIS SECTION, "HEALTH CARE PROVIDER" HAS THE MEANING
24 STATED IN § 3-2A-01 OF THE COURTS AND JUDICIAL PROCEEDINGS ARTICLE.

25 (2) "HEALTH CARE PROVIDER" INCLUDES A HOSPITAL, AS DEFINED IN §
26 19-301 OF THE HEALTH - GENERAL ARTICLE.

1 (3) FOR PURPOSES OF THIS SECTION, A HEALTH CARE PROVIDER MAY
2 BE LICENSED OR CERTIFIED IN MARYLAND, ANY OTHER STATE, OR THE DISTRICT OF
3 COLUMBIA.

4 (B) (1) WITHOUT THE SUPPORT OF THE TESTIMONY OF THE HEALTH CARE
5 PROVIDER WHO MADE THE WRITING OR RECORD OR THE CUSTODIAN OF THE
6 WRITING OR RECORD, BUT SUBJECT TO SUBSECTIONS (D) AND (E) OF THIS SECTION,
7 A PERSON APPEALING A DECISION OF THE COMMISSION MAY INTRODUCE AS
8 EVIDENCE IN A DE NOVO APPEAL A WRITING OR RECORD OF A HEALTH CARE
9 PROVIDER IF THE WRITING OR RECORD WAS MADE TO DOCUMENT:

10 (I) A MEDICAL, DENTAL, OR OTHER HEALTH CONDITION;

11 (II) A HEALTH CARE PROVIDER'S OPINION;

12 (III) THE HEALTH CARE PROVIDED; OR

13 (IV) THE MEDICAL NECESSITY OF THE HEALTH CARE PROVIDED.

14 (2) A WRITING OR RECORD MAY BE INTRODUCED UNDER PARAGRAPH (1)
15 OF THIS SUBSECTION AS PROOF OF:

16 (I) THE EXISTENCE OF A MEDICAL, DENTAL, OR OTHER HEALTH
17 CONDITION;

18 (II) THE HEALTH CARE PROVIDER'S OPINION;

19 (III) THE HEALTH CARE PROVIDED; OR

20 (IV) THE MEDICAL NECESSITY OF THE HEALTH CARE PROVIDED.

21 (C) WITHOUT THE SUPPORT OF THE TESTIMONY OF THE HEALTH CARE
22 PROVIDER WHO MADE THE STATEMENT OR FOR WHOSE SERVICES A BILL WAS
23 RENDERED OR THE CUSTODIAN OF THE WRITTEN STATEMENT OR BILL, BUT
24 SUBJECT TO THE PROVISIONS OF SUBSECTIONS (D) AND (E) OF THIS SECTION, AN
25 APPELLEE MAY INTRODUCE AS EVIDENCE IN A DE NOVO APPEAL FROM A DECISION
26 OF THE COMMISSION A WRITTEN STATEMENT OR BILL FOR HEALTH CARE EXPENSES
27 TO PROVE THE AMOUNT, FAIRNESS, AND REASONABLENESS OF THE CHARGES FOR
28 THE SERVICES OR MATERIALS PROVIDED.

29 (D) IN ORDER FOR A WRITING, RECORD, WRITTEN STATEMENT, OR BILL FOR
30 SERVICES TO BE ADMISSIBLE ON APPEAL UNDER THIS SECTION:

31 (1) THE WRITING, RECORD, WRITTEN STATEMENT, OR BILL SHALL HAVE
32 BEEN INTRODUCED IN THE ORIGINAL PROCEEDING THAT IS THE SUBJECT OF THE
33 APPEAL;

34 (2) AT LEAST 120 DAYS BEFORE THE DATE SCHEDULED FOR THE
35 HEARING OF THE APPEAL, THE PARTY WHO INTENDS TO INTRODUCE THE WRITING,
36 RECORD, WRITTEN STATEMENT, OR BILL SHALL:

1 (I) SERVE ON ALL OTHER PARTIES, AS PROVIDED UNDER
2 MARYLAND RULES 1-321 AND 1-322:

3 1. NOTICE OF THE PARTY'S INTENT TO INTRODUCE THE
4 WRITING, RECORD, WRITTEN STATEMENT, OR BILL WITHOUT THE SUPPORT OF
5 TESTIMONY OF THE MAKER OR CUSTODIAN OF THE WRITING, RECORD, WRITTEN
6 STATEMENT, OR BILL; AND

7 2. A COPY OF EACH WRITING, RECORD, WRITTEN
8 STATEMENT, OR BILL INCLUDED IN THE NOTICE; AND

9 (II) FILE NOTICE OF SERVICE WITH THE COURT; AND

10 (3) THE WRITING, RECORD, WRITTEN STATEMENT, OR BILL SHALL
11 OTHERWISE BE ADMISSIBLE.

12 (E) (1) WITHIN 45 DAYS AFTER RECEIVING THE NOTICE SERVED UNDER
13 SUBSECTION (D)(2) OF THIS SECTION, A PARTY MAY, FOR GOOD CAUSE, FILE WITH
14 THE COURT OBJECTIONS TO THE PROPOSED INTRODUCTION OF A WRITING, RECORD,
15 WRITTEN STATEMENT, OR BILL WITHOUT SUPPORTING TESTIMONY.

16 (2) AN OBJECTION SHALL:

17 (I) IDENTIFY WHICH WRITING, RECORD, WRITTEN STATEMENT, OR
18 BILL THE PARTY OBJECTS TO HAVING INTRODUCED WITHOUT TESTIMONY;

19 (II) SET FORTH THE FACTUAL BASIS OR LEGAL GROUNDS WHICH
20 ESTABLISH A SUFFICIENT SHOWING OF GOOD CAUSE FOR THE COURT TO SUSTAIN
21 THE OBJECTION; AND

22 (III) BE SERVED ON ALL PARTIES TO THE PROCEEDINGS AT THE
23 TIME THE OBJECTION IS FILED WITH THE COURT.

24 (F) THE OPPOSING PARTY MAY FILE A RESPONSE TO AN OBJECTION WITH
25 THE COURT WITHIN 10 DAYS AFTER RECEIVING THE OBJECTION.

26 (G) THIS SECTION DOES NOT LIMIT THE RIGHT OF A PARTY TO:

27 (1) INTRODUCE NEW HEALTH CARE EVIDENCE AT TRIAL; 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, 2000.