

SENATE BILL 324

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SB 654/99 - JPR

2000 Regular Session  
0lr1793

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By: **Senators Green and Miller**

Introduced and read first time: February 2, 2000

Assigned to: Judicial Proceedings

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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 (1999 Replacement Volume)

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 AS PROVIDED 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) (1) WITHOUT THE SUPPORT OF THE TESTIMONY OF A HEALTH CARE  
28 PROVIDER AS THE MAKER OR THE CUSTODIAN OF THE WRITING OR RECORD, AND

1 SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION AND SUBSECTION (E) OF THIS  
2 SECTION, A PARTY MAY INTRODUCE AS EVIDENCE IN A DE NOVO APPEAL A WRITING  
3 OR RECORD OF A HEALTH CARE PROVIDER THAT WAS MADE TO DOCUMENT:

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

5 (II) A HEALTH CARE PROVIDER'S OPINION; OR

6 (III) THAT HEALTH CARE HAS BEEN PROVIDED.

7 (2) A PARTY MAY INTRODUCE THE EVIDENCE ALLOWED UNDER  
8 PARAGRAPH (1) OF THIS SECTION ONLY TO PROVE:

9 (I) THE EXISTENCE OF THE MEDICAL, DENTAL, OR HEALTH  
10 CONDITION;

11 (II) THE MEDICAL OPINION;

12 (III) THAT HEALTH CARE HAS BEEN PROVIDED; OR

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

14 (D) WITHOUT THE SUPPORT OF THE TESTIMONY OF A HEALTH CARE  
15 PROVIDER AS THE MAKER OR THE CUSTODIAN OF THE STATEMENT OR BILL, AND  
16 SUBJECT TO SUBSECTION (E) OF THIS SECTION, A PARTY MAY INTRODUCE AS  
17 EVIDENCE IN A DE NOVO APPEAL A WRITTEN STATEMENT OR BILL FOR HEALTH  
18 CARE EXPENSES TO PROVE THE AMOUNT, FAIRNESS, AND REASONABLENESS OF THE  
19 CHARGES FOR THE SERVICES OR MATERIALS PROVIDED.

20 (E) IN ORDER TO BE ADMISSIBLE IN AN APPEAL UNDER THIS SECTION:

21 (1) THE WRITING OR RECORD SHALL HAVE BEEN PREVIOUSLY  
22 INTRODUCED IN THE COMMISSION PROCEEDING THAT IS THE SUBJECT OF THE  
23 APPEAL;

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

26 (I) SERVE NOTICE ON ALL OTHER PARTIES, AS REQUIRED UNDER  
27 MARYLAND RULES 1-321 AND 1-322, OF THE PARTY'S INTENT TO INTRODUCE THE  
28 WRITING OR RECORD WITHOUT THE SUPPORT OF A HEALTH CARE PROVIDER'S  
29 TESTIMONY AND A COPY OF THE WRITING OR RECORD; AND

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

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

32 (F) THIS SECTION DOES NOT LIMIT THE RIGHT OF A PARTY TO:

33 (1) INTRODUCE NEW HEALTH CARE EVIDENCE; OR

1           (2)       PRESENT WITNESSES AT TRIAL.

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

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