
By: **Senator Hollinger (Chairman, Health Subcommittee) and Senators
Conway, Harris, Pinsky, and Sfikas**

Introduced and read first time: February 3, 2000

Assigned to: Economic and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Medical Records - Confidentiality**

3 FOR the purpose of prohibiting the disclosure by sale, rental, or barter of certain
4 medical records; exempting certain medical records from the prohibition;
5 requiring certain payors to accept claims only from certain medical care
6 electronic claims clearinghouses; creating additional limitations on the
7 disclosure of certain records; exempting certain notes from the definition of
8 medical records; authorizing mental health providers to maintain certain notes
9 in specified situations; providing that a personal note is a medical record if
10 disclosed in a certain manner; requiring mental health providers to withhold
11 certain portions of the medical record and abide by certain requirements;
12 authorizing certain persons to release or obtain certain records under certain
13 circumstances; providing for punitive damages when a person knowingly and
14 willfully violates the provisions of this Act; establishing an Advisory Council on
15 Medical Privacy and Confidentiality to examine confidentiality issues; providing
16 for the membership and terms of the Advisory Council; establishing the duties of
17 the Advisory Council; requiring the Advisory Council to annually submit a
18 report to the Governor and General Assembly; defining certain terms; and
19 generally relating to the confidentiality of medical records.

20 BY renumbering

21 Article - Health - General
22 Section 4-302(e) and 4-307(d) through (h), respectively
23 to be Section 4-302(g) and 4-307(g) through (k), respectively
24 Annotated Code of Maryland
25 (1994 Replacement Volume and 1999 Supplement)

26 BY adding to

27 Article - Health - General
28 Section 4-302(e) and (f), 4-302.1, 4-307(d) through (f), and 4-309(g); and
29 4-3A-01 through 4-3A-05, inclusive, to be under the new subtitle
30 "Subtitle 3A. State Advisory Council on Medical Privacy and
31 Confidentiality"

1 Annotated Code of Maryland
2 (1994 Replacement Volume and 1999 Supplement)

3 BY repealing and reenacting, with amendments,
4 Article - Health - General
5 Section 4-306(b)(7) and 4-307(a)
6 Annotated Code of Maryland
7 (1994 Replacement Volume and 1999 Supplement)

8 BY repealing and reenacting, without amendments,
9 Article - Health - General
10 Section 4-307(b) and (c) and 4-309(e) and (f)
11 Annotated Code of Maryland
12 (1994 Replacement Volume and 1999 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article - Courts and Judicial Proceedings
15 Section 9-109(b), 9-109.1(b), and 9-121(b)
16 Annotated Code of Maryland
17 (1998 Replacement Volume and 1999 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
19 MARYLAND, That Section(s) 4-302(e) and 4-307(d) through (h), respectively, of the
20 Health - General Article of the Annotated Code of Maryland be renumbered to be
21 Section(s) 4-302(g) and 4-307(g) through (k), respectively.

22 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
23 read as follows:

24 **Article - Health - General**

25 4-302.

26 (E) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A
27 PERSON MAY NOT DISCLOSE BY SALE, RENTAL, OR BARTER ANY MEDICAL RECORD.

28 (2) THIS SUBSECTION SHALL NOT PROHIBIT THE TRANSFERS OF
29 MEDICAL RECORDS RELATING TO THE TRANSFER OF OWNERSHIP OF A HEALTH CARE
30 PRACTICE IF THE TRANSFER IS IN ACCORD WITH THE ETHICAL GUIDELINES OF THE
31 APPLICABLE HEALTH CARE PROFESSION OR PROFESSIONS.

32 (F) (1) IF A MEDICAL RECORD IS TRANSFERRED UNDER SUBSECTION (E)(2)
33 OF THIS SECTION, THE PROVIDER WHO MAINTAINS THE RECORDS SHALL NOTIFY
34 THE PATIENT OR PERSON IN INTEREST.

35 (2) THE NOTICE UNDER THIS SUBSECTION SHALL:

1 (I) BE MADE BY FIRST-CLASS MAIL TO THE LAST KNOWN ADDRESS
2 OF THE PATIENT OR PERSON IN INTEREST WITHIN 30 DAYS OF THE TRANSFER OF
3 OWNERSHIP OF THE HEALTH CARE PRACTICE; AND

4 (II) INCLUDE A DESIGNATED LOCATION FROM WHICH THE
5 MEDICAL RECORD MAY BE RETRIEVED, IF WANTED.

6 4-302.1.

7 (A) PAYORS THAT ACCEPT CLAIMS ORIGINATING IN THIS STATE FROM
8 MEDICAL CARE ELECTRONIC CLAIMS CLEARINGHOUSES SHALL ACCEPT CLAIMS
9 ONLY FROM MEDICAL CARE ELECTRONIC CLAIMS CLEARINGHOUSES THAT ARE:

10 (1) ACCREDITED BY THE ELECTRONIC HEALTHCARE NETWORK
11 ACCREDITATION COMMISSION; OR

12 (2) CERTIFIED BY THE STATE HEALTH CARE COMMISSION.

13 (B) THE STATE HEALTH CARE COMMISSION SHALL ADOPT REGULATIONS TO
14 CARRY OUT THIS SUBSECTION.

15 4-306.

16 (b) A health care provider shall disclose a medical record without the
17 authorization of a person in interest:

18 (7) [To] SUBJECT TO THE ADDITIONAL LIMITATIONS FOR A MEDICAL
19 RECORD DEVELOPED PRIMARILY IN CONNECTION WITH THE PROVISION OF MENTAL
20 HEALTH SERVICES IN § 4-307 OF THIS SUBTITLE, TO grand juries, prosecution
21 agencies, law enforcement agencies or their agents or employees to further an
22 investigation or prosecution, pursuant to a subpoena, warrant, or court order for the
23 sole purposes of investigating and prosecuting criminal activity, provided that the
24 prosecution agencies and law enforcement agencies have written procedures to
25 protect the confidentiality of the records;

26 4-307.

27 (a) (1) In this section the following words have the meanings indicated.

28 (2) "Case management" means an individualized recipient centered
29 service designed to assist a recipient in obtaining effective mental health services
30 through the assessing, planning, coordinating, and monitoring of services on behalf of
31 the recipient.

32 (3) "Core service agency" means an organization approved by the Mental
33 Hygiene Administration to manage mental health resources and services in a
34 designated area or to a designated target population.

35 (4) "Director" means the Director of the Mental Hygiene Administration
36 or the designee of the Director.

1 (5) "Mental health director" means the health care professional who
2 performs the functions of a clinical director or the designee of that person in a health
3 care, detention, or correctional facility.

4 (6) (I) "PERSONAL NOTE" MEANS INFORMATION THAT IS:

5 1. THE WORK PRODUCT AND PERSONAL PROPERTY OF A
6 MENTAL HEALTH PROVIDER; AND

7 2. EXCEPT AS PROVIDED IN SUBSECTION (D)(3) OF THIS
8 SECTION, NOT DISCOVERABLE OR ADMISSIBLE AS EVIDENCE IN ANY CRIMINAL,
9 CIVIL, OR ADMINISTRATIVE ACTION.

10 (II) EXCEPT AS PROVIDED IN SUBSECTION (D)(2) OF THIS SECTION,
11 A MEDICAL RECORD DOES NOT INCLUDE A PERSONAL NOTE OF A MENTAL HEALTH
12 CARE PROVIDER, IF THE MENTAL HEALTH CARE PROVIDER:

13 1. KEEPS THE PERSONAL NOTE IN THE MENTAL HEALTH
14 CARE PROVIDER'S SOLE POSSESSION FOR THE PROVIDER'S OWN PERSONAL USE;

15 2. MAINTAINS THE PERSONAL NOTE SEPARATE FROM THE
16 RECIPIENT'S MEDICAL RECORDS; AND

17 3. DOES NOT DISCLOSE THE PERSONAL NOTE TO ANY OTHER
18 PERSON EXCEPT:

19 A. THE MENTAL HEALTH PROVIDER'S SUPERVISING HEALTH
20 CARE PROVIDER THAT MAINTAINS THE CONFIDENTIALITY OF THE PERSONAL NOTE;

21 B. A CONSULTING HEALTH CARE PROVIDER THAT
22 MAINTAINS THE CONFIDENTIALITY OF THE PERSONAL NOTE; OR

23 C. AN ATTORNEY OF THE HEALTH CARE PROVIDER THAT
24 MAINTAINS THE CONFIDENTIALITY OF THE PERSONAL NOTE.

25 (b) The disclosure of a medical record developed in connection with the
26 provision of mental health services shall be governed by the provisions of this section
27 in addition to the other provisions of this subtitle.

28 (c) When a medical record developed in connection with the provision of
29 mental health services is disclosed without the authorization of a person in interest,
30 only the information in the record relevant to the purpose for which disclosure is
31 sought may be released.

32 (D) (1) TO THE EXTENT A MENTAL HEALTH CARE PROVIDER DETERMINES IT
33 NECESSARY AND APPROPRIATE, THE MENTAL HEALTH CARE PROVIDER MAY
34 MAINTAIN A PERSONAL NOTE REGARDING A RECIPIENT.

1 (2) A PERSONAL NOTE SHALL BE CONSIDERED PART OF A RECIPIENT'S
2 MEDICAL RECORDS IF, AT ANY TIME, A MENTAL HEALTH CARE PROVIDER DISCLOSES
3 A PERSONAL NOTE TO:

4 (I) A PERSON OTHER THAN THE PROVIDER'S SUPERVISING
5 HEALTH CARE PROVIDER;

6 (II) A CONSULTING HEALTH CARE PROVIDER;

7 (III) AN ATTORNEY OF THE HEALTH CARE PROVIDER; OR

8 (IV) A RECIPIENT UNDER PARAGRAPH (3) OF THIS SUBSECTION.

9 (3) THE PROVISIONS OF THIS SUBSECTION DO NOT PROHIBIT THE
10 DISCLOSURE, DISCOVERY, OR ADMISSIBILITY OF A PERSONAL NOTE REGARDING A
11 RECIPIENT WHO HAS INITIATED AN ACTION FOR MALPRACTICE, AN INTENTIONAL
12 TORT, OR PROFESSIONAL NEGLIGENCE AGAINST THE HEALTH CARE PROVIDER.

13 (E) (1) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPHS (3), (4), AND (5) OF
14 THIS SUBSECTION, IF THE DISCLOSURE OF A PORTION OF A MEDICAL RECORD
15 RELATING TO A PSYCHOLOGICAL TEST WOULD COMPROMISE THE OBJECTIVITY OR
16 FAIRNESS OF THE TEST OR THE TESTING PROCESS, A MENTAL HEALTH CARE
17 PROVIDER MAY NOT DISCLOSE THAT PORTION OF THE MEDICAL RECORD TO ANY
18 PERSON, INCLUDING A SUBJECT OF THE TEST.

19 (2) THE RAW TEST DATA RELATING TO A PSYCHOLOGICAL TEST IS ONLY
20 DISCOVERABLE OR ADMISSIBLE AS EVIDENCE IN A CRIMINAL, CIVIL, OR
21 ADMINISTRATIVE ACTION ON THE DETERMINATION BY THE COURT OR
22 ADMINISTRATIVE HEARING OFFICER THAT THE EXPERT WITNESS FOR THE PARTY
23 SEEKING THE RAW TEST DATA IS QUALIFIED BY THE APPROPRIATE TRAINING,
24 EDUCATION, OR EXPERIENCE TO INTERPRET THE RESULTS OF THAT PORTION OF
25 THE RAW TEST DATA RELATING TO THE PSYCHOLOGICAL TEST.

26 (3) (I) A RECIPIENT WHO HAS BEEN THE SUBJECT OF A
27 PSYCHOLOGICAL TEST MAY DESIGNATE A PSYCHOLOGIST LICENSED UNDER TITLE 18
28 OF THE HEALTH OCCUPATIONS ARTICLE OR A PSYCHIATRIST LICENSED UNDER
29 TITLE 14 OF THE HEALTH OCCUPATIONS ARTICLE TO WHOM A HEALTH CARE
30 PROVIDER MAY DISCLOSE THE MEDICAL RECORD.

31 (II) THE RECIPIENT SHALL:

32 1. REQUEST THE DISCLOSURE AUTHORIZED UNDER THIS
33 PARAGRAPH IN WRITING; AND

34 2. COMPLY WITH THE PROVISIONS OF § 4-304 OF THIS
35 SUBTITLE.

36 (4) A HEALTH CARE PROVIDER MAY DISCLOSE A MEDICAL RECORD
37 RELATING TO A PSYCHOLOGICAL TEST AS PROVIDED UNDER § 4-305(B)(2)(I) OF THIS
38 SUBTITLE.

1 (5) THE PROVISIONS OF THIS SUBSECTION MAY NOT RESTRICT ACCESS
2 TO OR AFFECT THE DISCLOSURE OF A MEDICAL RECORD WHICH IS ALSO AN
3 EDUCATION RECORD UNDER THE FEDERAL INDIVIDUALS WITH DISABILITIES
4 EDUCATION ACT, THE FEDERAL FAMILY EDUCATION RIGHTS AND PRIVACY ACT, OR
5 ANY FEDERAL AND STATE REGULATIONS THAT HAVE BEEN ADOPTED TO
6 IMPLEMENT THOSE LAWS.

7 (F) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, A PERSON
8 IN INTEREST SHALL HAVE THE RIGHT TO OBTAIN A MEDICAL RECORD OF A
9 RECIPIENT THAT IS DEVELOPED IN CONJUNCTION WITH A MENTAL HEALTH
10 EVALUATION RELATING TO OBTAINING OR CONTINUING EMPLOYMENT, IF THE
11 EVALUATION HAS BEEN PERFORMED AT THE REQUEST OF OR ON BEHALF OF AN
12 EMPLOYER OR PROSPECTIVE EMPLOYER:

13 (1) IN CONNECTION WITH A CIVIL ACTION OR U.S. EQUAL EMPLOYMENT
14 OPPORTUNITY COMMISSION COMPLAINT INITIATED BY THE PERSON IN INTEREST;
15 OR

16 (2) ON A WRITTEN AUTHORIZATION OF THE EMPLOYER OR
17 PROSPECTIVE EMPLOYER.

18 4-309.

19 (e) (1) A health care provider or any other person, including an officer or
20 employee of a governmental unit, who knowingly and willfully requests or obtains a
21 medical record under false pretenses or through deception or knowingly and willfully
22 discloses a medical record in violation of this subtitle is guilty of a misdemeanor and
23 on conviction is subject to the following penalties:

24 (i) A fine not exceeding \$50,000, imprisonment for not more than 1
25 year, or both;

26 (ii) If the offense is committed under false pretenses, a fine not
27 exceeding \$100,000, imprisonment for not more than 5 years, or both; and

28 (iii) If the offense is committed with intent to sell, transfer, or use
29 individually identifiable health information for commercial advantage, personal gain,
30 or malicious harm, a fine not exceeding \$250,000, imprisonment for not more than 10
31 years, or both.

32 (2) This subsection does not apply to an officer or employee of a
33 governmental unit that is conducting a criminal investigation.

34 (f) A health care provider or any other person who knowingly violates any
35 provision of this subtitle is liable for actual damages.

36 (G) A HEALTH CARE PROVIDER OR ANY OTHER PERSON, INCLUDING AN
37 OFFICER OR EMPLOYEE OF A LOCAL GOVERNMENT UNDER § 5-303 OF THE COURTS
38 ARTICLE OR STATE PERSONNEL UNDER § 5-522 OF THE COURTS ARTICLE, MAY BE
39 LIABLE FOR PUNITIVE DAMAGES IF THE PERSON:

1 (1) KNOWINGLY AND WILLFULLY REQUESTS OR OBTAINS A MEDICAL
2 RECORD UNDER FALSE PRETENSES OR THROUGH DECEPTION WITH INTENT TO SELL,
3 TRANSFER, OR USE INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION FOR
4 COMMERCIAL ADVANTAGE, PERSONAL GAIN, OR MALICIOUS HARM; OR

5 (2) KNOWINGLY AND WILLFULLY DISCLOSES A MEDICAL RECORD IN
6 VIOLATION OF THIS SUBTITLE WITH INTENT TO SELL, TRANSFER, OR USE
7 INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION FOR COMMERCIAL
8 ADVANTAGE, PERSONAL GAIN, OR MALICIOUS HARM.

9 SUBTITLE 3A. STATE ADVISORY COUNCIL ON MEDICAL PRIVACY AND
10 CONFIDENTIALITY.

11 4-3A-01.

12 THERE IS A STATE ADVISORY COUNCIL ON MEDICAL PRIVACY AND
13 CONFIDENTIALITY.

14 4-3A-02.

15 (A) IN THIS SUBTITLE, "ADVISORY COUNCIL" MEANS THE STATE ADVISORY
16 COUNCIL ON MEDICAL PRIVACY AND CONFIDENTIALITY.

17 (B) (1) THE ADVISORY COUNCIL CONSISTS OF 25 MEMBERS.

18 (2) THE ADVISORY COUNCIL SHALL CONSIST OF 25 VOTING MEMBERS
19 APPOINTED BY THE GOVERNOR.

20 (3) OF THE 25 VOTING MEMBERS:

21 (I) ONE SHALL BE THE SECRETARY OF HEALTH AND MENTAL
22 HYGIENE OR THE SECRETARY'S DESIGNEE;

23 (II) TWO SHALL BE LICENSED PHYSICIANS;

24 (III) ONE SHALL BE A LICENSED DENTIST;

25 (IV) ONE SHALL BE A REPRESENTATIVE OF THE HEALTH
26 INSURANCE INDUSTRY;

27 (V) ONE SHALL BE A REPRESENTATIVE OF THE HOSPITAL
28 INDUSTRY;

29 (VI) ONE SHALL BE A REPRESENTATIVE OF A MEDICAL
30 INSTITUTION THAT IS ENGAGED IN MEDICAL RESEARCH;

31 (VII) THREE SHALL BE CONSUMER MEMBERS, INCLUDING ONE
32 FROM THE MARYLAND PATIENT ADVOCACY GROUP;

33 (VIII) ONE SHALL BE A REPRESENTATIVE OF AN INTEREST GROUP
34 THAT IS INTERESTED IN MEDICAL CONFIDENTIALITY;

- 1 (IX) ONE SHALL BE A REPRESENTATIVE FROM THE MENTAL
2 HEALTH ASSOCIATION;
- 3 (X) ONE SHALL BE A LICENSED NURSE;
- 4 (XI) ONE SHALL BE A REPRESENTATIVE OF A STATE HEALTH CARE
5 REGULATORY COMMISSION THAT IS INVOLVED IN THE COLLECTION OF DATA;
- 6 (XII) ONE SHALL BE A MEDICAL ETHICIST;
- 7 (XIII) ONE SHALL BE A COMPUTER SECURITY AND ENCRYPTION
8 EXPERT;
- 9 (XIV) ONE SHALL BE A MEMBER OF THE MARYLAND PLAINTIFF'S BAR
10 ASSOCIATION;
- 11 (XV) ONE SHALL BE A MEMBER OF THE MARYLAND DEFENSE BAR
12 ASSOCIATION;
- 13 (XVI) ONE SHALL BE A REPRESENTATIVE OF THE DEPARTMENT OF
14 HEALTH AND MENTAL HYGIENE WITH SPECIFIC KNOWLEDGE OF STATE AND
15 FEDERAL REGULATIONS ON CONFIDENTIALITY RELATIVE TO MENTAL HEALTH
16 TREATMENT;
- 17 (XVII) ONE SHALL BE A REPRESENTATIVE OF ORGANIZED LABOR;
- 18 (XVIII) ONE SHALL BE A MEDICAL RECORDS PROFESSIONAL;
- 19 (XIX) ONE SHALL BE A REPRESENTATIVE FROM THE ASSOCIATION
20 OF CHAIN DRUGSTORES;
- 21 (XX) ONE SHALL BE A LICENSED CLINICAL SOCIAL WORKER;
- 22 (XXI) ONE SHALL BE A MEMBER OF THE SENATE OF MARYLAND; AND
- 23 (XXII) ONE SHALL BE A MEMBER OF THE MARYLAND HOUSE OF
24 DELEGATES.
- 25 (C) (1) THE TERM OF A VOTING MEMBER IS 4 YEARS.
- 26 (2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE
27 TERMS PROVIDED FOR MEMBERS OF THE ADVISORY COUNCIL.
- 28 (3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A
29 SUCCESSOR IS APPOINTED AND QUALIFIES.
- 30 (4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES
31 ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND
32 QUALIFIES.

1 (D) THE GOVERNOR MAY REMOVE A MEMBER FOR INCOMPETENCE OR
2 MISCONDUCT.

3 4-3A-03.

4 FROM AMONG THE MEMBERS OF THE ADVISORY COUNCIL, THE GOVERNOR
5 SHALL APPOINT A CHAIRMAN FOR A 2-YEAR TERM.

6 4-3A-04.

7 (A) A MAJORITY OF THE MEMBERS SERVING ON THE ADVISORY COUNCIL IS A
8 QUORUM.

9 (B) THE ADVISORY COUNCIL SHALL DETERMINE THE TIMES AND PLACES OF
10 ITS MEETINGS.

11 (C) A MEMBER OF THE ADVISORY COUNCIL:

12 (1) MAY NOT RECEIVE COMPENSATION; BUT

13 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE
14 STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

15 (D) THE SECRETARY OF HEALTH AND MENTAL HYGIENE SHALL DESIGNATE
16 THE STAFF NECESSARY TO CARRY OUT THIS SUBTITLE.

17 4-3A-05.

18 (A) THE ADVISORY COUNCIL SHALL:

19 (1) ADVISE THE GENERAL ASSEMBLY OF EMERGING ISSUES IN THE
20 CONFIDENTIALITY OF MEDICAL RECORDS;

21 (2) CONDUCT HEARINGS;

22 (3) MONITOR DEVELOPMENTS IN FEDERAL LAW AND REGULATIONS
23 REGARDING:

24 (I) CONFIDENTIALITY OF MEDICAL RECORDS;

25 (II) HEALTH CARE INFORMATION TECHNOLOGY;

26 (III) TELEMEDICINE; AND

27 (IV) PROVIDER AND PATIENT COMMUNICATION;

28 (4) STUDY MEDICAL DATABASES AND THE ELECTRONIC TRANSMISSION
29 OF DATA IN RELATION TO ITS IMPACT ON PATIENT CONFIDENTIALITY;

30 (5) STUDY EMERGING PROVIDER BEST PRACTICES FOR SUPPORTING
31 PATIENT CONFIDENTIALITY;

1 (6) MAKE RECOMMENDATIONS TO THE GENERAL ASSEMBLY
2 REGARDING THE CONFIDENTIALITY OF MEDICAL RECORDS; AND

3 (7) ON OR BEFORE DECEMBER 15 OF EACH YEAR, SHALL SUBMIT AN
4 ANNUAL REPORT AND ITS RECOMMENDATIONS TO THE GOVERNOR, AND SUBJECT TO
5 § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY.

6 **Article - Courts and Judicial Proceedings**

7 9-109.

8 (b) Unless otherwise provided, in all judicial, legislative, or administrative
9 proceedings, a patient or [his] THE PATIENT'S authorized representative has a
10 privilege to refuse to disclose, and to prevent a witness from [disclosing,
11 communications] DISCLOSING:

12 (1) COMMUNICATIONS relating to diagnosis or treatment of the
13 [patient's mental or emotional disorder] PATIENT; OR

14 (2) ANY INFORMATION THAT BY ITS NATURE WOULD SHOW THE
15 EXISTENCE OF A MEDICAL RECORD OF THE DIAGNOSIS OR TREATMENT.

16 9-109.1.

17 (b) Unless otherwise provided, in any judicial, legislative, or administrative
18 proceeding, a client or a client's authorized representative has a privilege to refuse to
19 disclose, and to prevent a witness from disclosing, communications relating [to
20 diagnosis] TO:

21 (1) DIAGNOSIS or treatment of the [client's mental or emotional
22 disorder] CLIENT; OR

23 (2) ANY INFORMATION THAT BY ITS NATURE WOULD SHOW A MEDICAL
24 RECORD OF THE DIAGNOSIS OR TREATMENT EXISTS.

25 9-121.

26 (b) Unless otherwise provided, in all judicial or administrative proceedings, a
27 client has a privilege to refuse to disclose, and to prevent a witness from disclosing,
28 communications made while the client was receiving counseling OR ANY
29 INFORMATION THAT BY ITS NATURE WOULD SHOW THAT SUCH COUNSELING
30 OCCURRED.

31 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 July 1, 2000.