
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

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 9, 2000

CHAPTER _____

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)

1 BY adding to
2 Article - Health - General
3 Section 4-302(e) ~~and (f)~~, 4-302.1, 4-307(d) through (f), and 4-309(g); and
4 4-3A-01 through 4-3A-05, inclusive, to be under the new subtitle
5 "Subtitle 3A. State Advisory Council on Medical Privacy and
6 Confidentiality"
7 Annotated Code of Maryland
8 (1994 Replacement Volume and 1999 Supplement)

9 BY repealing and reenacting, with amendments,
10 Article - Health - General
11 Section 4-306(b)(7) and 4-307(a)
12 Annotated Code of Maryland
13 (1994 Replacement Volume and 1999 Supplement)

14 BY repealing and reenacting, without amendments,
15 Article - Health - General
16 Section 4-307(b) and (c) and 4-309(e) and (f)
17 Annotated Code of Maryland
18 (1994 Replacement Volume and 1999 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article - Courts and Judicial Proceedings
21 Section 9-109(b), 9-109.1(b), and 9-121(b)
22 Annotated Code of Maryland
23 (1998 Replacement Volume and 1999 Supplement)

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

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

30 **Article - Health - General**

31 4-302.

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

34 (2) THIS SUBSECTION SHALL NOT PROHIBIT THE TRANSFERS OF
35 MEDICAL RECORDS RELATING TO THE TRANSFER OF OWNERSHIP OF A HEALTH CARE
36 PRACTICE OR FACILITY IF THE TRANSFER IS IN ACCORD WITH THE ETHICAL
37 GUIDELINES OF THE APPLICABLE HEALTH CARE PROFESSION OR PROFESSIONS.

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

4 ~~(2) THE NOTICE UNDER THIS SUBSECTION SHALL:~~

5 ~~(I) BE MADE BY FIRST CLASS MAIL TO THE LAST KNOWN ADDRESS~~
6 ~~OF THE PATIENT OR PERSON IN INTEREST WITHIN 30 DAYS OF THE TRANSFER OF~~
7 ~~OWNERSHIP OF THE HEALTH CARE PRACTICE; AND~~

8 ~~(II) INCLUDE A DESIGNATED LOCATION FROM WHICH THE~~
9 ~~MEDICAL RECORD MAY BE RETRIEVED, IF WANTED.~~

10 4-302.1.

11 (A) PAYORS THAT ACCEPT CLAIMS ORIGINATING IN THIS STATE FROM
12 MEDICAL CARE ELECTRONIC CLAIMS CLEARINGHOUSES SHALL ACCEPT CLAIMS
13 ONLY FROM MEDICAL CARE ELECTRONIC CLAIMS CLEARINGHOUSES THAT ARE:

14 (1) ACCREDITED BY THE ELECTRONIC HEALTHCARE NETWORK
15 ACCREDITATION COMMISSION; OR

16 (2) CERTIFIED BY THE STATE MARYLAND HEALTH CARE COMMISSION.

17 (B) THE STATE MARYLAND HEALTH CARE COMMISSION SHALL ADOPT
18 REGULATIONS TO CARRY OUT THIS SUBSECTION.

19 4-306.

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

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

30 4-307.

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

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

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

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

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

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

10 1. THE WORK PRODUCT AND PERSONAL PROPERTY OF A
11 MENTAL HEALTH PROVIDER; AND

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

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

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

20 2. MAINTAINS THE PERSONAL NOTE SEPARATE FROM THE
21 RECIPIENT'S MEDICAL RECORDS; AND

22 3. DOES NOT DISCLOSE THE PERSONAL NOTE TO ANY OTHER
23 PERSON EXCEPT:

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

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

28 C. AN ATTORNEY OF THE HEALTH CARE PROVIDER THAT
29 MAINTAINS THE CONFIDENTIALITY OF THE PERSONAL NOTE.

30 (III) "PERSONAL NOTE" DOES NOT INCLUDE INFORMATION
31 CONCERNING THE PATIENT'S DIAGNOSIS, TREATMENT PLAN, SYMPTOMS,
32 PROGNOSIS, OR PROGRESS NOTES.

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

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

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

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

11 (I) A PERSON OTHER THAN:

12 (II) THE PROVIDER'S SUPERVISING HEALTH CARE PROVIDER;

13 (III) A CONSULTING HEALTH CARE PROVIDER;

14 (IV) AN ATTORNEY OF THE HEALTH CARE PROVIDER; OR

15 (V) A RECIPIENT UNDER PARAGRAPH (3) OF THIS SUBSECTION.

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

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

26 (2) THE RAW TEST DATA RELATING TO A PSYCHOLOGICAL TEST IS ONLY
27 DISCOVERABLE OR ADMISSIBLE AS EVIDENCE IN A CRIMINAL, CIVIL, OR
28 ADMINISTRATIVE ACTION ON THE DETERMINATION BY THE COURT OR
29 ADMINISTRATIVE HEARING OFFICER THAT THE EXPERT WITNESS FOR THE PARTY
30 SEEKING THE RAW TEST DATA IS QUALIFIED BY THE APPROPRIATE TRAINING,
31 EDUCATION, OR EXPERIENCE TO INTERPRET THE RESULTS OF THAT PORTION OF
32 THE RAW TEST DATA RELATING TO THE PSYCHOLOGICAL TEST.

33 (3) (I) A RECIPIENT WHO HAS BEEN THE SUBJECT OF A
34 PSYCHOLOGICAL TEST MAY DESIGNATE A PSYCHOLOGIST LICENSED UNDER TITLE 18
35 OF THE HEALTH OCCUPATIONS ARTICLE OR A PSYCHIATRIST LICENSED UNDER
36 TITLE 14 OF THE HEALTH OCCUPATIONS ARTICLE TO WHOM A HEALTH CARE
37 PROVIDER MAY DISCLOSE THE MEDICAL RECORD.

38 (II) THE RECIPIENT SHALL:

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

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

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

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

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

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

23 (2) ON A WRITTEN AUTHORIZATION OF THE EMPLOYER OR
24 PROSPECTIVE EMPLOYER.

25 4-309.

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

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

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

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

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

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

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

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

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

17 SUBTITLE 3A. STATE ADVISORY COUNCIL ON MEDICAL PRIVACY AND
18 CONFIDENTIALITY.

19 4-3A-01.

20 THERE IS A STATE ADVISORY COUNCIL ON MEDICAL PRIVACY AND
21 CONFIDENTIALITY.

22 4-3A-02.

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

25 (B) (1) THE ADVISORY COUNCIL CONSISTS OF ~~25~~ 29 MEMBERS.

26 (2) THE ADVISORY COUNCIL SHALL CONSIST OF ~~25~~ 29 VOTING MEMBERS
27 APPOINTED BY THE GOVERNOR.

28 (3) OF THE ~~25~~ 29 VOTING MEMBERS:

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

31 (II) ~~TWO~~ THREE SHALL BE LICENSED PHYSICIANS, INCLUDING:

32 1. ONE BOARD CERTIFIED PEDIATRICIAN WITH EXPERTISE
33 IN THE CONFIDENTIALITY OF CHILDREN'S MEDICAL RECORDS; AND

34 2. ONE LICENSED PSYCHIATRIST;

- 1 (III) ONE SHALL BE A LICENSED DENTIST;
- 2 (IV) ONE SHALL BE A REPRESENTATIVE OF THE HEALTH
3 INSURANCE INDUSTRY;
- 4 (V) ONE SHALL BE A REPRESENTATIVE OF THE HOSPITAL
5 INDUSTRY;
- 6 (VI) ONE SHALL BE A REPRESENTATIVE OF A MEDICAL
7 INSTITUTION THAT IS ENGAGED IN MEDICAL RESEARCH;
- 8 (VII) THREE SHALL BE CONSUMER MEMBERS, INCLUDING ONE
9 FROM THE MARYLAND PATIENT ADVOCACY GROUP;
- 10 (VIII) ONE SHALL BE A REPRESENTATIVE OF AN INTEREST GROUP
11 THAT IS INTERESTED IN MEDICAL CONFIDENTIALITY;
- 12 (IX) ONE SHALL BE A REPRESENTATIVE FROM THE MENTAL
13 HEALTH ASSOCIATION;
- 14 (X) ONE SHALL BE A LICENSED NURSE;
- 15 (XI) ONE SHALL BE A REPRESENTATIVE OF A STATE HEALTH CARE
16 REGULATORY COMMISSION THAT IS INVOLVED IN THE COLLECTION OF DATA;
- 17 (XII) ONE SHALL BE A MEDICAL ETHICIST;
- 18 (XIII) ONE SHALL BE A COMPUTER SECURITY AND ENCRYPTION
19 EXPERT;
- 20 (XIV) ONE SHALL BE A MEMBER OF THE MARYLAND PLAINTIFF'S BAR
21 ASSOCIATION;
- 22 (XV) ONE SHALL BE A MEMBER OF THE MARYLAND DEFENSE BAR
23 ASSOCIATION;
- 24 (XVI) ONE SHALL BE A REPRESENTATIVE OF THE DEPARTMENT OF
25 HEALTH AND MENTAL HYGIENE WITH SPECIFIC KNOWLEDGE OF STATE AND
26 FEDERAL REGULATIONS ON CONFIDENTIALITY RELATIVE TO MENTAL HEALTH
27 TREATMENT;
- 28 (XVII) ONE SHALL BE A REPRESENTATIVE OF ORGANIZED LABOR;
- 29 (XVIII) ONE SHALL BE A MEDICAL RECORDS PROFESSIONAL;
- 30 (XIX) ONE SHALL BE A REPRESENTATIVE FROM THE ASSOCIATION
31 OF CHAIN DRUGSTORES;
- 32 (XX) ONE SHALL BE A LICENSED PSYCHOLOGIST;

1 (XXI) ONE SHALL BE A REPRESENTATIVE OF THE LIFE INSURANCE
 2 INDUSTRY;

3 (XXII) ONE SHALL BE A LICENSED PHARMACIST;

4 (XXIII) ONE SHALL BE A LICENSED CLINICAL SOCIAL WORKER;

5 ~~(XXIV)~~ (XXIV) ONE SHALL BE A MEMBER OF THE SENATE OF
 6 MARYLAND; AND

7 ~~(XXIV)~~ (XXV) ONE SHALL BE A MEMBER OF THE MARYLAND HOUSE
 8 OF DELEGATES.

9 (C) (1) THE TERM OF A VOTING MEMBER IS 4 YEARS.

10 (2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE
 11 TERMS PROVIDED FOR MEMBERS OF THE ADVISORY COUNCIL.

12 (3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A
 13 SUCCESSOR IS APPOINTED AND QUALIFIES.

14 (4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES
 15 ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND
 16 QUALIFIES.

17 (D) THE GOVERNOR MAY REMOVE A MEMBER FOR INCOMPETENCE OR
 18 MISCONDUCT.

19 4-3A-03.

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

22 4-3A-04.

23 (A) A MAJORITY OF THE MEMBERS SERVING ON THE ADVISORY COUNCIL IS A
 24 QUORUM.

25 (B) THE ADVISORY COUNCIL SHALL DETERMINE THE TIMES AND PLACES OF
 26 ITS MEETINGS.

27 (C) A MEMBER OF THE ADVISORY COUNCIL:

28 (1) MAY NOT RECEIVE COMPENSATION; BUT

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

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

1 4-3A-05.

2 (A) THE ADVISORY COUNCIL SHALL:

3 (1) ADVISE THE GENERAL ASSEMBLY OF EMERGING ISSUES IN THE
4 CONFIDENTIALITY OF MEDICAL RECORDS;

5 (2) CONDUCT HEARINGS;

6 (3) MONITOR DEVELOPMENTS IN FEDERAL LAW AND REGULATIONS
7 REGARDING:

8 (I) CONFIDENTIALITY OF MEDICAL RECORDS;

9 (II) HEALTH CARE INFORMATION TECHNOLOGY;

10 (III) TELEMEDICINE; AND

11 (IV) PROVIDER AND PATIENT COMMUNICATION;

12 (4) FACILITATE DISSEMINATION OF INFORMATION ON, AND
13 COMPLIANCE WITH, FEDERAL STANDARDS FOR PRIVACY OF INDIVIDUALLY
14 IDENTIFIABLE HEALTH INFORMATION;

15 (5) STUDY THE ISSUE OF PATIENT OR PERSON IN INTEREST
16 NOTIFICATION SUBSEQUENT TO:

17 (I) THE TRANSFER OF RECORDS RELATING TO THE TRANSFER OF
18 OWNERSHIP OF A HEALTH CARE PRACTICE;

19 (II) THE DEATH, RETIREMENT, OR CHANGE IN EMPLOYMENT OF A
20 HEALTH CARE PRACTITIONER; OR

21 (III) THE SALE, DISSOLUTION, OR BANKRUPTCY OF A CORPORATION
22 WHICH HAS OWNERSHIP INTERESTS OR POSSESSION OF MEDICAL RECORDS;

23 (6) STUDY MEDICAL DATABASES AND THE ELECTRONIC TRANSMISSION
24 OF DATA IN RELATION TO ITS IMPACT ON PATIENT CONFIDENTIALITY;

25 ~~(5)~~ (7) STUDY EMERGING PROVIDER BEST PRACTICES FOR
26 SUPPORTING PATIENT CONFIDENTIALITY;

27 ~~(6)~~ (8) MAKE RECOMMENDATIONS TO THE GENERAL ASSEMBLY
28 REGARDING THE CONFIDENTIALITY OF MEDICAL RECORDS; AND

29 ~~(7)~~ (9) ON OR BEFORE DECEMBER 15 OF EACH YEAR, SHALL SUBMIT
30 AN ANNUAL REPORT AND ITS RECOMMENDATIONS TO THE GOVERNOR, AND SUBJECT
31 TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY.

1

Article - Courts and Judicial Proceedings

2 9-109.

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

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

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

11 9-109.1.

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

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

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

20 9-121.

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

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