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By: **Delegates McHale and Minnick**  
Introduced and read first time: February 5, 2001  
Assigned to: Economic Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Workers' Compensation - Appeals - Evidence**

3 FOR the purpose of authorizing the introduction into evidence in a de novo appeal  
4 from a decision of the Workers' Compensation Commission a writing, record, or  
5 bill of a health care provider without the supporting testimony of the health care  
6 provider or custodian of the writing, record, or bill under certain circumstances;  
7 providing for the right to object for good cause to the introduction of evidence  
8 without supporting testimony; providing for the content of an objection;  
9 requiring certain notice to all parties; providing for a response to an objection;  
10 providing for the construction and application of this Act; defining "health care  
11 provider"; and generally relating to supporting testimony for evidence  
12 introduced in de novo appeals from Workers' Compensation Commission  
13 decisions.

14 BY adding to  
15 Article - Labor and Employment  
16 Section 9-745.1  
17 Annotated Code of Maryland  
18 (1999 Replacement Volume and 2000 Supplement)

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 PROVIDED IN § 3-2A-01 OF THE COURTS ARTICLE, EXCEPT THAT FOR PURPOSES OF  
25 THIS SECTION, A HEALTH CARE PROVIDER MAY BE LICENSED OR CERTIFIED IN  
26 MARYLAND, ANOTHER STATE, OR THE DISTRICT OF COLUMBIA.

27 (2) "HEALTH CARE PROVIDER" INCLUDES A HOSPITAL, AS DEFINED IN §  
28 19-301 OF THE HEALTH - GENERAL ARTICLE.

1 (B) SUBJECT TO SUBSECTIONS (D) AND (E) OF THIS SECTION, WITHOUT THE  
2 SUPPORTING TESTIMONY OF THE HEALTH CARE PROVIDER WHO MADE THE WRITING  
3 OR RECORD OR THE CUSTODIAN OF THE WRITING OR RECORD, AN APPELLEE MAY  
4 INTRODUCE IN A DE NOVO APPEAL FROM A DECISION OF THE COMMISSION, AS  
5 EVIDENCE OF THE EXISTENCE OF THE CONDITION, OPINION, CARE, OR NECESSITY  
6 OF CARE, A WRITING OR RECORD OF A HEALTH CARE PROVIDER MADE TO  
7 DOCUMENT:

8 (1) A MEDICAL, DENTAL, OR OTHER HEALTH CONDITION;

9 (2) A HEALTH CARE PROVIDER'S OPINION;

10 (3) THE HEALTH CARE PROVIDED; OR

11 (4) THE NECESSITY OF THE HEALTH CARE PROVIDED.

12 (C) (1) SUBJECT TO THE PROVISIONS OF SUBSECTIONS (D) AND (E) OF THIS  
13 SECTION, AN APPELLEE MAY INTRODUCE AS EVIDENCE IN A DE NOVO APPEAL FROM  
14 A DECISION OF THE COMMISSION A WRITTEN STATEMENT OR BILL FOR HEALTH  
15 CARE EXPENSES TO PROVE THE AMOUNT, FAIRNESS, AND REASONABLENESS OF THE  
16 CHARGES FOR THE SERVICES OR MATERIALS PROVIDED.

17 (2) THE EVIDENCE MAY BE INTRODUCED WITHOUT THE SUPPORTING  
18 TESTIMONY OF:

19 (I) THE HEALTH CARE PROVIDER WHO MADE THE STATEMENT;

20 (II) THE HEALTH CARE PROVIDER FOR WHOSE SERVICES A BILL  
21 WAS RENDERED; OR

22 (III) THE CUSTODIAN OF THE WRITING OR BILL.

23 (D) IN ORDER FOR A WRITING, RECORD, OR BILL FOR SERVICES OR  
24 MATERIALS TO BE ADMISSIBLE ON APPEAL UNDER THIS SECTION:

25 (1) THE WRITING, RECORD, OR BILL SHALL HAVE BEEN INTRODUCED IN  
26 THE PROCEEDING THAT IS THE SUBJECT OF THE APPEAL;

27 (2) AT LEAST 120 DAYS BEFORE THE DATE FOR WHICH THE TRIAL IS  
28 SCHEDULED, THE PARTY WHO INTENDS TO INTRODUCE THE WRITING, RECORD, OR  
29 BILL SHALL:

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

32 1. NOTICE OF THE PARTY'S INTENT TO INTRODUCE THE  
33 WRITING, RECORD, OR BILL WITHOUT THE SUPPORTING TESTIMONY OF THE MAKER  
34 OR CUSTODIAN OF THE DOCUMENT OR DOCUMENTS; AND

35 2. A COPY OF EACH WRITING, RECORD, OR BILL INCLUDED  
36 IN THE NOTICE; AND

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

2 (3) THE WRITING, RECORD, OR BILL SHALL BE OTHERWISE ADMISSIBLE.

3 (E) (1) WITHIN 45 DAYS OF RECEIPT OF THE NOTICE SERVED UNDER  
4 SUBSECTION (D)(2) OF THIS SECTION, A PARTY MAY FOR GOOD CAUSE FILE WITH THE  
5 COURT OBJECTIONS TO THE PROPOSED INTRODUCTION OF EVIDENCE WITHOUT  
6 TESTIMONY.

7 (2) THE OBJECTIONS:

8 (I) SHALL IDENTIFY WHICH PROPOSED EVIDENCE THAT THE  
9 PARTY OBJECTS TO HAVING INTRODUCED WITHOUT TESTIMONY;

10 (II) SHALL SET FORTH THE FACTUAL BASIS OR LEGAL GROUNDS  
11 WHICH ESTABLISH A SUFFICIENT SHOWING OF GOOD CAUSE FOR THE COURT TO  
12 SUSTAIN THE OBJECTIONS; AND

13 (III) SHALL BE SERVED ON ALL PARTIES TO THE PROCEEDINGS AT  
14 THE TIME THE OBJECTIONS ARE FILED WITH THE COURT.

15 (F) A PARTY MAY FILE A RESPONSE TO THE OBJECTIONS WITH THE COURT  
16 WITHIN 10 DAYS OF RECEIPT OF THE OBJECTIONS.

17 (G) THIS SECTION MAY NOT BE CONSTRUED TO LIMIT THE RIGHT OF A PARTY  
18 TO INTRODUCE NEW HEALTH CARE EVIDENCE AT TRIAL OR PRESENT WITNESSES AT  
19 TRIAL.

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 appeal from the Workers' Compensation Commission filed  
23 before the effective date of this Act.

24 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
25 October 1, 2001.