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By: **Senator Hollinger**

Introduced and read first time: February 2, 2001

Assigned to: Finance

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A BILL ENTITLED

1 AN ACT concerning

2 **Medical Records - Maintenance and Destruction - Confidentiality**

3 FOR the purpose of requiring the Secretary of Health and Mental Hygiene to adopt  
4 certain regulations for the destruction of medical records; requiring the  
5 Secretary to consult with certain entities before adopting the regulations;  
6 specifying what is to be included in the regulations; providing for certain  
7 penalties; defining certain terms; and generally relating to the maintenance and  
8 destruction of medical records.

9 BY repealing and reenacting, with amendments,  
10 Article - Health - General  
11 Section 4-403  
12 Annotated Code of Maryland  
13 (2000 Replacement Volume)

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

16 **Article - Health - General**

17 4-403.

18 (a) (1) In this section, a "health care provider" means:

19 [(1)] (I) An acupuncturist;

20 [(2)] (II) An audiologist;

21 [(3)] (III) A chiropractor;

22 [(4)] (IV) A dietitian;

23 [(5)] (V) A dentist;

24 [(6)] (VI) An electrologist;

(VII) A HEALTH CARE FACILITY THAT IS:

1. A FREESTANDING AMBULATORY CARE FACILITY AS  
DEFINED UNDER § 19-3B-01 OF THIS ARTICLE;
2. A FREESTANDING MEDICAL FACILITY AS DEFINED UNDER  
§ 19-3A-01 OF THIS ARTICLE;
3. A HEALTH CARE FACILITY AS DEFINED UNDER § 10-101 OF  
THIS ARTICLE;
4. A HEALTH MAINTENANCE ORGANIZATION AS DEFINED  
UNDER § 19-701 OF THIS ARTICLE;
5. A HOSPITAL AS DEFINED UNDER § 19-301 OF THIS  
ARTICLE;
6. A LABORATORY AS DEFINED UNDER § 17-201 OF THIS  
ARTICLE;
7. A LIMITED SERVICE HOSPITAL AS DEFINED UNDER §  
19-301 OF THIS ARTICLE;
8. A RELATED INSTITUTION AS DEFINED IN § 19-301 OF THIS  
ARTICLE; AND
9. A RESIDENTIAL TREATMENT CENTER AS DEFINED UNDER  
§ 19-301 OF THIS ARTICLE;

[(7)] (VIII) A massage therapist;

[(8)] (IX) A mortician;

[(9)] (X) A nurse;

[(10)] (XI) A nutritionist;

[(11)] (XII) An occupational therapist;

[(12)] (XIII) An optometrist;

[(13)] (XIV) A physical therapist;

[(14)] (XV) A physician;

[(15)] (XVI) A podiatrist;

[(16)] (XVII) A professional counselor;

[(17)] (XVIII) A psychologist;

1 [(18)] (XIX) A social worker; and

2 [(19)] (XX) A speech-language pathologist.

3 (2) "HEALTH CARE PROVIDER" INCLUDES AN AGENT, EMPLOYEE,  
4 OFFICER, OR DIRECTOR OF ANY ENTITY LISTED UNDER PARAGRAPH (1) OF THIS  
5 SUBSECTION.

6 (b) Except for a minor patient, unless a patient is notified, a health care  
7 provider may not destroy a medical record or laboratory or X-ray report about a  
8 patient for 5 years after the record or report is made.

9 (c) In the case of a minor patient, a medical record or laboratory or X-ray  
10 report about a minor patient may not be destroyed until the patient attains the age of  
11 majority plus 3 years or for 5 years after the record or report is made, whichever is  
12 later, unless:

13 (1) The parent or guardian of the minor patient is notified; or

14 (2) If the medical care documented in the record was provided under §  
15 20-102(c) or § 20-103(c) of this article, the minor patient is notified.

16 (d) The notice under subsections (b) and (c) of this section shall:

17 (1) Be made by first-class mail to the last known address of the patient;

18 (2) Include the date on which the record of the patient shall be destroyed;  
19 and

20 (3) Include a statement that the record or synopsis of the record, if  
21 wanted, must be retrieved at a designated location within 30 days of the proposed  
22 date of destruction.

23 (e) After the death, retirement, surrender of the license, or discontinuance of  
24 the practice or business of a health care provider, the health care provider, the  
25 administrator of the estate, or a designee who agrees to provide for the maintenance  
26 of the medical records of the practice or business and who states, in writing to the  
27 appropriate health occupation board within a reasonable time, that the records will  
28 be maintained in compliance with this section, shall:

29 (1) Forward the notice required in this section before the destruction or  
30 transfer of medical records; or

31 (2) Publish a notice in a daily newspaper that is circulated locally for 2  
32 consecutive weeks:

33 (i) Stating the date that the medical records will be destroyed or  
34 transferred; and

35 (ii) Designating a location, date, and time where the medical  
36 records may be retrieved, if wanted.

1 (F) (1) AFTER CONSULTING WITH THE ASSOCIATION OF MARYLAND  
2 HOSPITALS AND HEALTH SYSTEMS, THE MARYLAND STATE MEDICAL SOCIETY, AND  
3 OTHER INTERESTED PARTIES, INCLUDING CONSUMERS AND PAYORS, THE  
4 SECRETARY SHALL ADOPT REGULATIONS GOVERNING THE DESTRUCTION OF  
5 MEDICAL RECORDS.

6 (2) THE REGULATIONS ADOPTED UNDER THIS SUBSECTION SHALL:

7 (I) SPECIFY THE MANNER IN WHICH A HEALTH CARE PROVIDER  
8 SHALL MAINTAIN AND STORE MEDICAL RECORDS TO:

9 1. ENSURE CONFIDENTIALITY; AND

10 2. PROVIDE LIMITED ACCESS TO THE MEDICAL RECORDS  
11 UNTIL THE RECORDS ARE DESTROYED; AND

12 (II) ENSURE THAT THE METHOD OF DESTRUCTION RENDERS THE  
13 MEDICAL RECORDS UNREADABLE.

14 [(f)] (G) (1) A health care provider or any other person who knowingly  
15 violates any provision of this subtitle is liable for actual damages.

16 (2) IN ADDITION TO ANY OTHER PENALTIES PROVIDED FOR UNDER  
17 THIS ARTICLE, A PERSON WHO KNOWINGLY VIOLATES THIS SECTION IS SUBJECT TO  
18 AN ADMINISTRATIVE FINE NOT EXCEEDING \$25,000 FOR ALL VIOLATIONS CITED IN A  
19 SINGLE DAY.

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
21 October 1, 2001.