
By: **Senator Hollinger**

Introduced and read first time: February 2, 2001

Assigned to: Finance

Reassigned: Economic and Environmental Affairs, February 8, 2001

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 19, 2001

CHAPTER _____

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;

- 1 [(3)] (III) A chiropractor;
- 2 [(4)] (IV) A dietitian;
- 3 [(5)] (V) A dentist;
- 4 [(6)] (VI) An electrologist;
- 5 (VII) A HEALTH CARE FACILITY THAT IS:
- 6 1. A FREESTANDING AMBULATORY CARE FACILITY AS
- 7 DEFINED UNDER § 19-3B-01 OF THIS ARTICLE;
- 8 2. A FREESTANDING MEDICAL FACILITY AS DEFINED UNDER
- 9 § 19-3A-01 OF THIS ARTICLE;
- 10 3. A HEALTH CARE FACILITY AS DEFINED UNDER § 10-101 OF
- 11 THIS ARTICLE;
- 12 4. A HEALTH MAINTENANCE ORGANIZATION AS DEFINED
- 13 UNDER § 19-701 OF THIS ARTICLE;
- 14 5. A HOSPITAL AS DEFINED UNDER § 19-301 OF THIS
- 15 ARTICLE;
- 16 ~~6. A LABORATORY AS DEFINED UNDER § 17-201 OF THIS~~
- 17 ~~ARTICLE;~~
- 18 ~~7. 6.~~ A LIMITED SERVICE HOSPITAL AS DEFINED UNDER §
- 19 19-301 OF THIS ARTICLE;
- 20 ~~8. 7.~~ A RELATED INSTITUTION AS DEFINED IN § 19-301 OF THIS
- 21 ARTICLE; AND
- 22 ~~9. 8.~~ A RESIDENTIAL TREATMENT CENTER AS DEFINED UNDER
- 23 § 19-301 OF THIS ARTICLE;
- 24 [(7)] (VIII) A massage therapist;
- 25 [(8)] (IX) A mortician;
- 26 [(9)] (X) A nurse;
- 27 [(10)] (XI) A nutritionist;
- 28 [(11)] (XII) An occupational therapist;
- 29 [(12)] (XIII) An optometrist;
- 30 [(13)] (XIV) A physical therapist;

- 1 [(14)] (XV) A physician;
- 2 [(15)] (XVI) A podiatrist;
- 3 [(16)] (XVII) A professional counselor;
- 4 [(17)] (XVIII) A psychologist;
- 5 [(18)] (XIX) A social worker; and
- 6 [(19)] (XX) A speech-language pathologist.

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

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

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

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

18 (2) If the medical care documented in the record was provided under §
19 20-102(c) or § 20-103(c) of this article, the minor patient is notified.

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

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

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

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

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

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

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

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

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

7 (F) (1) AFTER CONSULTING WITH THE ASSOCIATION OF MARYLAND
8 HOSPITALS AND HEALTH SYSTEMS, THE MARYLAND STATE MEDICAL SOCIETY, AND
9 OTHER INTERESTED PARTIES, INCLUDING CONSUMERS AND PAYORS, THE
10 SECRETARY SHALL ADOPT REGULATIONS GOVERNING THE DESTRUCTION OF
11 MEDICAL RECORDS.

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

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

15 1. ENSURE CONFIDENTIALITY; AND

16 2. PROVIDE LIMITED ACCESS TO THE MEDICAL RECORDS
17 UNTIL THE RECORDS ARE DESTROYED; AND

18 (II) ENSURE THAT THE METHOD OF DESTRUCTION RENDERS THE
19 MEDICAL RECORDS UNREADABLE.

20 (3) THE REGULATIONS ADOPTED UNDER THIS SUBSECTION MAY NOT:

21 (I) REQUIRE OR ENCOURAGE THE DESTRUCTION OF MEDICAL
22 RECORDS; OR

23 (II) BE INCONSISTENT WITH ANY PROVISION OF LAW APPLICABLE
24 TO THE MAINTENANCE OR DESTRUCTION OF MEDICAL RECORDS.

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

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

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

