

**Department of Legislative Services**  
Maryland General Assembly  
2002 Session

**FISCAL NOTE**

House Bill 1015

(Delegate Gladden, *et al.*)

Judiciary

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**Health Care Records - Ex Parte Communications With Health Care Providers**

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This bill generally prohibits a health care provider from communicating information regarding a patient to anyone for the purpose of assisting in the prosecution or defense of a potential or actual legal claim without the written consent of the patient, a person in interest, or legal counsel for the patient or person in interest. The bill specifies exceptions relating to: (1) representation of the health care provider; and (2) compelled testimony. The bill also adds exceptions relating to disclosure of a medical record to assist other health providers with potential or actual claims after proper notice has been provided by that party to the patient or person in interest.

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**Fiscal Summary**

**State Effect:** This bill is procedural in nature and is not expected to have any material impact on governmental operations or finances.

**Local Effect:** None -- see above.

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:** A health care provider (including an agent, servant, employee, officer, or director of a health care provider or facility) generally may not communicate information regarding a patient to anyone for the purpose of assisting in the prosecution or defense of a potential or actual legal claim without the written consent of the patient, a person in interest, or legal counsel for the patient or person in interest.

The bill provides for the following exceptions:

- the health care provider may communicate information to the health care provider's own insurer or legal counsel to the extent such information is related to the representation of the health care provider;
- if compelled by subpoena, the health care provider may communicate information at a deposition, evidentiary hearing, trial, or other legal proceeding for which proper notice has been given to the patient, person in interest, or legal counsel for the patient or person in interest;
- the health care provider may disclose a patient's medical record to any provider's insurer or legal counsel to the extent it relates to the subject matter of a potential or actual claim provided that the party requesting the information:
  - provides the patient's health care provider with an affidavit attesting that notice was provided to the patient, person in interest, or legal counsel prior to requesting the disclosure; and
  - notifies the patient, person in interest, or legal counsel for same via certified mail at least 14 days in advance of the party's intent to request the disclosure from the health care provider;
- the health care provider must disclose a patient's medical record to any provider's insurer or legal counsel to the extent it relates to the subject matter of an actual claim brought by the patient, recipient, or person in interest, provided that the party requesting the information:
  - provides the patient's health care provider with an affidavit attesting that notice was provided to the patient, person in interest, or legal counsel prior to requesting the disclosure; and
  - notifies the patient, person in interest, or legal counsel for same via certified mail at least 14 days in advance of the party's intent to request the disclosure from the health care provider.

**Current Law:** A health care provider generally may not disclose a patient's medical information without the patient's (or a legal representative's) consent. Current law provides limited exceptions, including for purposes of: (1) seeking payment for provision of health care services; (2) handling claims made by the patient (or representative) against the provider or any other provider; (3) education, research, and evaluation; (4) treatment by other providers or emergency care; (5) organ or tissue donation; (6) reporting suspected child abuse or neglect; and (7) complying with a subpoena, summons, warrant, or court order for certain investigations.

## **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Health and Mental Hygiene, Department of Legislative Services

**Fiscal Note History:** First Reader - February 20, 2002  
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