

Department of Legislative Services

Maryland General Assembly

2002 Session

FISCAL NOTE

House Bill 87

(Chairman, Environmental Matters Committee)

(Departmental – Health and Mental Hygiene)

Environmental Matters

Autopsy Reports and Related Records - Confidentiality

This departmental bill requires the custodian of an autopsy report to deny inspection of the report and any related records except by: (1) a governmental agency performing its lawful duties; (2) the health care provider of the deceased for quality assurance purposes; (3) the decedent's next of kin, except during an ongoing investigation of the death; or (4) a person authorized by regulation to inspect the report.

Fiscal Summary

State Effect: Any change in State activities would not materially affect State finances.

Local Effect: Any change in local activities would not materially affect local finances.

Small Business Effect: The Department of Health and Mental Hygiene has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Current Law: Except as otherwise provided, a custodian must deny inspection of the part of a public record that contains medical or psychological information about an individual, other than an autopsy report of a medical examiner. A custodian of a public record must comply with a written request by a person in interest to receive a copy of a medical record or to see and copy the medical record.

Limited exceptions to the disclosure requirement are given for medical records relating to psychiatric or psychological problems when the attending health care provider believes that disclosure would be injurious to the patient. However, such a health care provider must make: (a) a summary of the undisclosed portion of the medical record; (b) insert a copy of the summary in the medical record of the patient; (c) permit examination and copying of the medical record by another health care provider treating the patient for the same or a similar condition; and (d) inform the patient of the patient's right to select another health care provider.

Background: By regulation, the Office of the Chief Medical Examiner (OCME) charges an administrative fee of \$10 for family members and \$40 for private institutions for providing requested certified and prepared medical examiner's reports.

In a recent court case, OCME was required to release names of individuals who had been autopsied and whose blood alcohol content was 0.01 or greater. In another, more recent court case, OCME offered to release information from ten fields containing information relating to autopsy reports from its database in a suit seeking information from all data fields. The Circuit Court for Baltimore City found that only the information in the ten fields relating to autopsy reports must be released.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Health and Mental Hygiene, Office of the Attorney General, Department of Legislative Services

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lc/jr

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