

BY: Education, Health, and Environmental Affairs Committee

AMENDMENTS TO SENATE BILL NO. 693

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “and Frosh” and substitute “, Frosh, and Grosfeld”; strike line 2 in its entirety and substitute:

“Health Care Providers - Disclosure of Mental Health Records - Subpoenas”;

strike beginning with “requiring” in line 3 down through “Physicians” in line 14 and substitute “requiring a health care provider to disclose a certain medical record without certain authorization to certain boards if a certain certificate is attached to a certain subpoena; and generally relating to the disclosure of medical records to health professional licensing and disciplinary boards.”; in line 16, strike “Health Occupations” and substitute “Health - General”; and in line 17, strike “14-401(h)” and substitute “4-307(k)(1)”.

AMENDMENT NO. 2

On pages 1 and 2, strike in their entirety the lines beginning with line 22 on page 1 through line 14 on page 2, inclusive, and substitute:

“Article - Health - General

4-307.

(k) (1) A health care provider shall disclose a medical record without the authorization of a person in interest:

(i) To the medical or mental health director of a juvenile or adult detention or correctional facility or to another inpatient provider of mental health services in connection with the transfer of a recipient from an inpatient provider, if:

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1. The health care provider with the records has determined that disclosure is necessary for the continuing provision of mental health services; and

2. The recipient is transferred:

A. As an involuntary commitment or by court order to the provider;

B. Under State law to a juvenile or adult detention or correctional facility; or

C. To a provider that is required by law or regulation to admit the recipient;

(ii) To the State designated protection and advocacy system for mentally ill individuals under the federal Protection and Advocacy for Mentally Ill Individuals Act of 1986, as amended, if:

1. The State designated protection and advocacy system has received a complaint regarding the recipient or the director of the system has certified in writing to the chief administrative officer of the health care provider that there is probable cause to believe that the recipient has been subject to abuse or neglect;

2. The recipient by reason of mental or physical condition is unable to authorize disclosure; and

3. A. The recipient does not have a legal guardian or other legal representative who has the authority to consent to the release of health care information; or

B. The legal guardian of the recipient is a representative of a State agency;

(iii) To another health care provider or legal counsel to the other health care provider prior to and in connection with or for use in a commitment proceeding in accordance with Title 10, Subtitle 6 or Title 12 of this article;

(iv) In accordance with a court order, other than compulsory process

compelling disclosure, as permitted under § 9-109(d), § 9-109.1(d), or § 9-121(d) of the Courts and Judicial Proceedings Article, or as otherwise provided by law, to:

1. A court;
2. An administrative law judge;
3. A health claims arbitrator; or
4. A party to a court, administrative, or arbitration proceeding;

(v) In accordance with service of compulsory process or a discovery request, as permitted under § 9-109(d), § 9-109.1(d), or § 9-121(d) of the Courts and Judicial Proceedings Article, or as otherwise provided by law, to a court, an administrative tribunal, or a party to a civil court, administrative, or health claims arbitration proceeding, if:

1. The request for issuance of compulsory process or the request for discovery filed with the court or administrative tribunal and served on the health care provider is accompanied by a copy of a certificate directed to the recipient, the person in interest, or counsel for the recipient or the person in interest; and

2. The certificate:

A. Notifies the recipient or the person in interest that disclosure of the recipient's medical record is sought;

B. Notifies the recipient or the person in interest of the provisions of this subsection or any other provision of law on which the requesting party relies in seeking disclosure of the information;

C. Notifies the recipient or the person in interest of the procedure for filing a motion to quash or a motion for a protective order;

D. Is attached to a copy of the request for issuance of a

(Over)

compulsory process or request for discovery; and

E. Is mailed to the recipient, the person in interest, or counsel for the recipient or person in interest by certified mail, return receipt requested, on or before the date of filing the request for issuance of compulsory process or the request for discovery;

(vi) In accordance with a subpoena for medical records on specific recipients:

1. To health professional licensing and disciplinary boards for the sole purpose of an investigation regarding licensure, certification, or discipline of a health professional or the improper practice of a health profession IF THE CERTIFICATE DESCRIBED UNDER ITEM (V)2 OF THIS PARAGRAPH IS ATTACHED TO THE SUBPOENA; and

2. To grand juries, prosecution agencies, and law enforcement agencies under the supervision of prosecution agencies for the sole purposes of investigation and prosecution of a provider for theft and fraud, related offenses, obstruction of justice, perjury, unlawful distribution of controlled substances, and of any criminal assault, neglect, patient abuse or sexual offense committed by the provider against a recipient, provided that the prosecution or law enforcement agency shall:

A. Have written procedures which shall be developed in consultation with the Director to maintain the medical records in a secure manner so as to protect the confidentiality of the records; and

B. In a criminal proceeding against a provider, to the maximum extent possible, remove and protect recipient identifying information from the medical records used in the proceeding; or

(vii) In the event of the death of a recipient, to the office of the medical examiner as authorized under § 5-309 or § 10-714 of this article.”.