
By: **Delegates Bobo, Benson, Donoghue, Hubbard, Mandel, Nathan-Pulliam,
Rudolph, and V. Turner**

Introduced and read first time: February 11, 2005

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Health Care Practices and Facilities - Closure - Patient Medical Records**

3 FOR the purpose of requiring the owner of a health care practice or facility that
4 decides to close the health care practice or facility to notify certain patients
5 within a certain number of days of closure of certain information regarding the
6 retrieval of certain medical records; providing that a certain owner of a health
7 care practice or facility is in violation of certain laws for failure to provide
8 certain notification to certain patients under certain circumstances; and
9 generally relating to health care practices or facilities providing notification of
10 closure and the retrieval of patient medical records.

11 BY repealing and reenacting, with amendments,
12 Article - Health - General
13 Section 4-302 and 4-309
14 Annotated Code of Maryland
15 (2000 Replacement Volume and 2004 Supplement)

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

18 **Article - Health - General**

19 4-302.

20 (a) A health care provider shall:

21 (1) Keep the medical record of a patient or recipient confidential; and

22 (2) Disclose the medical record only:

23 (i) As provided by this subtitle; or

24 (ii) As otherwise provided by law.

25 (b) The provisions of this subtitle do not apply to information:

1 (1) Not kept in the medical record of a patient or recipient that is related
2 to the administration of a health care facility, including:

3 (i) Risk management;

4 (ii) Quality assurance; and

5 (iii) Any activities of a medical or dental review committee that are
6 confidential under the provisions of Title 4, Subtitle 5 and Title 14, Subtitle 5 of the
7 Health Occupations Article and any activities of a pharmacy review committee;

8 (2) Governed by the federal confidentiality of alcohol and drug abuse
9 patient records regulations, 42 CFR Part 2 and the provisions of § 8-601(c) of this
10 article; or

11 (3) Governed by the developmental disability confidentiality provisions
12 in §§ 7-1008 through 7-1011 of this article.

13 (c) A health care provider may disclose directory information about a patient
14 without the authorization of a person in interest, except if the patient has instructed
15 the health care provider in writing not to disclose directory information.

16 (d) A person to whom a medical record is disclosed may not redisclose the
17 medical record to any other person unless the redisclosure is:

18 (1) Authorized by the person in interest;

19 (2) Otherwise permitted by this subtitle;

20 (3) Permitted under Article 88A, § 6(b) of the Code; or

21 (4) Directory information.

22 (e) (1) Except as provided in paragraph (2) of this subsection, a person may
23 not disclose by sale, rental, or barter any medical record.

24 (2) This subsection shall not prohibit the transfers of medical records
25 relating to the transfer of ownership of a health care practice or facility if the transfer
26 is in accord with the ethical guidelines of the applicable health care profession or
27 professions.

28 (F) THE OWNER OF A HEALTH CARE PRACTICE OR FACILITY THAT DECIDES TO
29 CLOSE THE PRACTICE OR FACILITY SHALL SEND A WRITTEN NOTICE TO EACH
30 PATIENT AT LEAST 30 DAYS BEFORE CLOSURE THAT INCLUDES:

31 (1) A STATEMENT THAT THE PRACTICE OR FACILITY IS CLOSING;

32 (2) THE DATE ON WHICH THE PRACTICE OR FACILITY WILL BE CLOSED;

1 (3) A STATEMENT THAT THE PATIENT HAS 30 DAYS FROM THE DATE OF
2 RECEIPT OF THE WRITTEN NOTIFICATION TO RETRIEVE THE PATIENT'S MEDICAL
3 RECORDS FROM THE PRACTICE OR FACILITY; AND

4 (4) INSTRUCTIONS REGARDING THE RETRIEVAL OF MEDICAL RECORDS
5 IF A PATIENT IS UNABLE TO RETRIEVE MEDICAL RECORDS WITHIN THE 30 DAY TIME
6 PERIOD.

7 [(f)] (G) The provisions of this subtitle may not be construed to constitute an
8 exception to the reporting requirements of Title 5, Subtitle 7 and Title 14, Subtitle 3
9 of the Family Law Article.

10 4-309.

11 (a) If a health care provider knowingly refuses to disclose a medical record
12 within a reasonable time but no more than 21 working days after the date a person in
13 interest requests the disclosure, the health care provider is liable for actual damages.

14 (b) A health care provider may not refuse to disclose a medical record on the
15 request of a person in interest because of the failure of the person in interest to pay
16 for health care rendered by the health care provider.

17 (c) A health care provider or any other person is in violation of this subtitle if
18 the health care provider or any other person:

19 (1) Requests or obtains a medical record under false pretenses or
20 through deception; [or]

21 (2) Discloses a medical record in violation of this subtitle; OR

22 (3) FAILS TO SEND A WRITTEN NOTICE TO EACH PATIENT REGARDING
23 THE RETRIEVAL OF MEDICAL RECORDS AT LEAST 30 DAYS BEFORE THE CLOSING OF
24 A HEALTH CARE PRACTICE OR FACILITY.

25 (d) Except as otherwise provided in subsection (e) of this section, a health care
26 provider or any other person, including an officer or employee of a governmental unit,
27 who knowingly and willfully violates any provision of this subtitle is guilty of a
28 misdemeanor and on conviction is subject to a fine not exceeding \$1,000 for the first
29 offense and not exceeding \$5,000 for each subsequent conviction for a violation of any
30 provision of this subtitle.

31 (e) (1) A health care provider or any other person, including an officer or
32 employee of a governmental unit, who knowingly and willfully requests or obtains a
33 medical record under false pretenses or through deception or knowingly and willfully
34 discloses a medical record in violation of this subtitle is guilty of a misdemeanor and
35 on conviction is subject to the following penalties:

36 (i) A fine not exceeding \$50,000, imprisonment for not more than 1
37 year, or both;

1 (ii) If the offense is committed under false pretenses, a fine not
2 exceeding \$100,000, imprisonment for not more than 5 years, or both; and

3 (iii) If the offense is committed with intent to sell, transfer, or use
4 individually identifiable health information for commercial advantage, personal gain,
5 or malicious harm, a fine not exceeding \$250,000, imprisonment for not more than 10
6 years, or both.

7 (2) This subsection does not apply to an officer or employee of a
8 governmental unit that is conducting a criminal investigation.

9 (f) A health care provider or any other person who knowingly violates any
10 provision of this subtitle is liable for actual damages.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2005.