
By: **Senator Hollinger**

Introduced and read first time: February 4, 2005

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 20, 2005

CHAPTER _____

1 AN ACT concerning

2 **Medical Records - Authorized Disclosures - Compulsory Process**

3 FOR the purpose of authorizing certain health care providers who disclose certain
 4 medical records to charge certain fees; altering certain requirements for certain
 5 disclosures of certain medical records; requiring certain health care providers to
 6 disclose certain medical records under certain circumstances if the health care
 7 provider receives certain assurances from certain parties or certain counsel,
 8 certain proof of a certain waiver, or certain copies of certain orders entered by a
 9 court and certain copies of certain subpoenas, summonses, warrants, or court
 10 orders, a certain section of a certain article of the Annotated Code, and certain
 11 notices to certain individuals in a certain form within a certain time; repealing
 12 a certain requirement for a certain disclosure of certain medical records; and
 13 generally relating to the compulsory process and authorized disclosures of
 14 medical records.

15 BY repealing and reenacting, with amendments,
 16 Article - Health - General
 17 Section 4-304(c), 4-306(b)(6), and 4-307(k)(1)(v) through (vii)
 18 Annotated Code of Maryland
 19 (2000 Replacement Volume and 2004 Supplement)

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

1

Article - Health - General

2 4-304.

3 (c) (1) (i) In this subsection, "medical record" includes a copy of a medical
4 bill that has been requested by an individual.

5 (ii) The provisions of this subsection do not apply to x-rays.

6 (2) A health care provider may require a person in interest or any other
7 authorized person who requests a copy of a medical record to pay the cost of copying:

8 (i) For State facilities regulated by the Department of Health and
9 Mental Hygiene, as provided in § 10-621 of the State Government Article; or

10 (ii) For all other health care providers, the reasonable cost of
11 providing the information requested.

12 (3) (i) Subject to the provisions of paragraph (4) of this subsection, for
13 a copy of a medical record requested by a person in interest or any other authorized
14 person under paragraph (2)(ii) of this subsection, a health care provider may charge a
15 fee for copying and mailing not exceeding 50 cents for each page of the medical record.

16 (ii) In addition to the fee charged under subparagraph (i) of this
17 paragraph, a hospital or a health care provider may charge:

18 1. A preparation fee not to exceed \$15 for medical record
19 retrieval and preparation; and

20 2. The actual cost for postage and handling of the medical
21 record.

22 (4) On or after July 1, 1995, the fees charged under paragraph (3) of this
23 subsection may be adjusted annually for inflation in accordance with the Consumer
24 Price Index.

25 (5) A HEALTH CARE PROVIDER WHO DISCLOSES A MEDICAL RECORD
26 UNDER § 4-306 OF THIS SUBTITLE MAY CHARGE FEES FOR THE RETRIEVAL, COPYING,
27 PREPARATION, MAILING, AND ACTUAL COST OF POSTAGE AND HANDLING OF THE
28 MEDICAL RECORD.

29 [(5)] (6) Notwithstanding any other provision of law, any person or
30 entity who is not subject to the provisions of this subsection and who obtains a
31 medical record from a health care provider or the provider's agent may not charge a
32 fee for any subsequent copies of that medical record that exceeds the fee authorized
33 under paragraph (3)(i) of this subsection.

34 4-306.

35 (b) A health care provider shall disclose a medical record without the
36 authorization of a person in interest:

UNOFFICIAL COPY OF SENATE BILL 690

1 3. A NOTICE IN THE FOLLOWING FORM OR A
2 SUBSTANTIALLY SIMILAR FORM:

3 _____ IN THE
4 PLAINTIFFS _____

5 V. _____ FOR

6 _____
7 DEFENDANTS
8 CASE NO.: _____

9 NOTICE TO (PATIENT NAME)
10 IN COMPLIANCE WITH § 4-306 OF THE HEALTH - GENERAL ARTICLE,
11 ANNOTATED CODE OF MARYLAND

12 TAKE NOTE THAT MEDICAL RECORDS REGARDING (PATIENT NAME), HAVE BEEN
13 SUBPOENAED FROM THE (NAME AND ADDRESS OF HEALTH CARE PROVIDER)
14 PURSUANT TO THE ATTACHED SUBPOENA AND § 4-306 OF THE HEALTH - GENERAL
15 ARTICLE, ANNOTATED CODE OF MARYLAND. THIS SUBPOENA ____ DOES ____ DOES
16 NOT (MARK ONE) SEEK PRODUCTION OF MENTAL HEALTH RECORDS.

17 PLEASE EXAMINE THESE PAPERS CAREFULLY. IF YOU HAVE ANY OBJECTION TO
18 THE PRODUCTION OF THESE DOCUMENTS, YOU MUST FILE A MOTION FOR A
19 PROTECTIVE ORDER OR A MOTION TO QUASH THE SUBPOENA ISSUED FOR THESE
20 DOCUMENTS UNDER MARYLAND RULES 2-403 AND 2-510 NO LATER THAN THIRTY(30)
21 DAYS FROM THE DATE THIS NOTICE IS MAILED. FOR EXAMPLE, A PROTECTIVE ORDER
22 MAY BE GRANTED IF THE RECORDS ARE NOT RELEVANT TO THE ISSUES IN THIS
23 CASE, THE REQUEST UNDULY INVADES YOUR PRIVACY, OR CAUSES YOU SPECIFIC
24 HARM.

25 ALSO ATTACHED TO THIS FORM IS A COPY OF THE ~~WRIT OF SUMMONS~~
26 SUBPOENA DUCES TECUM ISSUED FOR THESE RECORDS.

27 IF YOU BELIEVE YOU NEED FURTHER LEGAL ADVICE ABOUT THIS MATTER, YOU
28 SHOULD CONSULT YOUR ATTORNEY.

29 _____
30 ATTORNEY
31 (FIRM NAME
32 ATTORNEY ADDRESS
33 ATTORNEY PHONE NUMBER)

33 ATTORNEYS FOR (NAME OF PARTY
34 REPRESENTED)

1 CERTIFICATE OF SERVICE

2 I HEREBY CERTIFY THAT A COPY OF THE FOREGOING NOTICE WAS MAILED,
3 FIRST-CLASS POSTAGE PREPAID, THIS ___ DAY OF _____, 200_ TO

4 _____
5 PATIENT

6 _____
7 EACH COUNSEL IN CASE

8 _____
9 ATTORNEY

10 4-307.

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

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

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

22 2. The certificate:

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

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

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

30 D. Is attached to a copy of the request for issuance of a
31 compulsory process or request for discovery; and

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

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

3 1. To health professional licensing and disciplinary boards
4 for the sole purpose of an investigation regarding licensure, certification, or discipline
5 of a health professional or the improper practice of a health profession; and

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

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

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

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

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 July 1, 2005.