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By: **Senators Hollinger and Frosh**

Introduced and read first time: February 4, 2005

Assigned to: Education, Health, and Environmental Affairs

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A BILL ENTITLED

1 AN ACT concerning

2 **State Board of Physicians - Subpoenas - Mental Health Records**

3 FOR the purpose of requiring the State Board of Physicians to notify a certain patient  
4 whose medical records in connection with mental health services are being  
5 subpoenaed as a result of a complaint received by the Board from a person other  
6 than the patient; requiring the Board to inform a certain patient of a certain  
7 time period in which the patient may assert in a motion to quash or a motion for a  
8 protective order any constitutional right or other legal authority in opposition  
9 to disclosure of certain medical records and the right to a hearing; providing  
10 that, if a certain patient fails to assert in a motion to quash or a motion for a  
11 protective order any constitutional right or other legal authority in opposition to  
12 disclosure within a certain time period, the Board may require the disclosure of  
13 certain medical records; and generally relating to subpoenas for mental health  
14 records issued by the State Board of Physicians.

15 BY repealing and reenacting, with amendments,  
16 Article - Health Occupations  
17 Section 14-401(h)  
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:

22 **Article - Health Occupations**

23 14-401.

24 (h) (1) The Board may issue subpoenas and administer oaths in connection  
25 with any investigation under this section and any hearing or proceeding before it.

26 (2) (I) A SUBPOENA ISSUED BY THE BOARD FOR A PATIENT'S MEDICAL  
27 RECORDS IN CONNECTION WITH MENTAL HEALTH SERVICES, AS A RESULT OF A  
28 COMPLAINT RECEIVED BY THE BOARD FROM A PERSON OTHER THAN THE PATIENT,  
29 IS SUBJECT TO THE REQUIREMENTS DESCRIBED IN THIS SUBPARAGRAPH.

1 (II) THE BOARD SHALL:

2 1. NOTIFY A PATIENT WHOSE MEDICAL RECORDS IN  
3 CONNECTION WITH MENTAL HEALTH SERVICES ARE BEING SUBPOENAED BY THE  
4 BOARD OF THE SUBPOENA FOR THE MEDICAL RECORDS; AND

5 2. INFORM THE PATIENT OF:

6 A. THE RIGHT TO ASSERT IN A MOTION TO QUASH OR A  
7 MOTION FOR A PROTECTIVE ORDER ANY CONSTITUTIONAL RIGHT OR OTHER LEGAL  
8 AUTHORITY IN OPPOSITION TO DISCLOSURE WITHIN 30 DAYS; AND

9 B. THE RIGHT TO A HEARING ON THE MOTION IN THE  
10 CIRCUIT COURT FOR THE JURISDICTION IN WHICH THE PATIENT RESIDES.

11 (III) IF THE PATIENT FAILS TO ASSERT IN A MOTION TO QUASH OR A  
12 MOTION FOR A PROTECTIVE ORDER ANY CONSTITUTIONAL RIGHT OR OTHER LEGAL  
13 AUTHORITY IN OPPOSITION TO DISCLOSURE WITHIN THE 30-DAY TIME PERIOD, THE  
14 BOARD MAY REQUIRE THE DISCLOSURE OF THE PATIENT'S MEDICAL RECORDS.

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