

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 690

(Senator Hollinger)

Education, Health, and Environmental Affairs

Health and Government Operations

Medical Records - Authorized Disclosures - Compulsory Process

This bill alters the requirements for disclosing a medical record without authorization of the person in interest.

The bill takes effect July 1, 2005.

Fiscal Summary

State Effect: None. The change would not directly affect governmental finances.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: A medical record must be disclosed by a health care provider in accordance with compulsory process without authorization if the provider receives:

- (1) a written assurance from the party or the attorney representing the party seeking the medical records that a person in interest has not objected to the disclosure and 30 days have passed since the notice was sent, or a person in interest's objections were resolved and the disclosure request is in accordance with the resolution; (2) proof that service of the subpoena, summons, warrant, or court order was waived by the court for good cause; or (3) a copy of an order entered by a court expressly authorizing disclosure of the designated medical records; and

- for the disclosures mentioned above, copies of the following items that were mailed by certified mail to the person in interest by the person requesting the disclosure at least 30 days before the records are to be disclosed: (1) the subpoena, summons, warrant, or court order seeking the disclosure or production of the records; (2) this section of statute; and (3) a notice in a form set in statute under the bill or a substantially similar form.

Current Law: A health care provider must disclose a medical record without the authorization of the person in interest under specified conditions. Under one of those conditions, disclosure of the medical record must be made subject to additional limitations for a medical record developed primarily in connection with providing mental health services, and except as otherwise provided in statute, if the subpoena, summons, warrant, or court order contains one of the following certifications: (1) that a copy of the subpoena, summons, warrant, or court order was served on the person whose records are sought by the party seeking the disclosure or production of the records; or (2) that service of the subpoena, summons, warrant, or court order was waived by the court for good cause in accordance with a stipulation by a patient or person in interest or in accordance with a discovery request permitted by law to be made in court, an administrative tribunal, or a party to a civil court, administrative, or health claims arbitration proceeding.

The definition of a person in interest includes an adult on whom a health care provider maintains a medical record and a parent of a minor, except if the parent's authority to consent to health care for the minor is limited by a court order or valid separation agreement entered into by the minor's parents.

A health care provider may require a person in interest or any other authorized person who requests a copy of a medical record to pay the cost of copying: for State facilities regulated by the Department of Health and Mental Hygiene, as provided in the State Government Article; or for all other health care providers, the reasonable cost of providing the information.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Health and Mental Hygiene, Department of Legislative Services

Fiscal Note History: First Reader - March 7, 2005
ncs/jr Revised - Senate Third Reader - March 29, 2005
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