

BY: Finance Committee

AMENDMENTS TO SENATE BILL NO. 802
(First Reading File Bill)

AMENDMENT NO. 1

In line 2, before “Medical” insert “Workers’ Compensation Commission - Authorization for Release of”; in the same line, strike “Records - Permitted Disclosures” and substitute “Information”; strike beginning with the first “a” in line 4 down through the second “of” in line 6 and substitute “an authorization for the release of certain medical information to be filed with the Workers’ Compensation Commission when a claim is filed for”; in line 7, after “disease;” insert “requiring a health care provider to disclose certain medical information on receipt of a certain authorization filed with the Commission;”; in line 8, strike “permitted disclosure of medical records” and substitute “authorization for the release of medical information and the filing of workers’ compensation claims”; in line 9, strike “adding to” and substitute “repealing and reenacting, with amendments,”; in line 11, strike “4-306(b)(11)” and substitute “4-303”; and after line 13, insert:

“BY repealing and reenacting, with amendments,

Article - Labor and Employment

Section 9-709, 9-710, and 9-711

Annotated Code of Maryland

(1999 Replacement Volume and 2005 Supplement)”.

AMENDMENT NO. 2

Strike in their entirety lines 17 through 23, inclusive, and substitute:

“4-303.

(a) A health care provider shall disclose a medical record on the authorization of a person in interest in accordance with this section.

(b) Except as otherwise provided in [subsection (c)] SUBSECTIONS (C) AND (D) of

(Over)

this section, an authorization shall:

- (1) Be in writing, dated, and signed by the person in interest;
- (2) State the name of the health care provider;
- (3) Identify to whom the information is to be disclosed;
- (4) State the period of time that the authorization is valid, which may not exceed 1

year, except:

(i) In cases of criminal justice referrals, in which case the authorization shall be valid until 30 days following final disposition; or

(ii) In cases where the patient on whom the medical record is kept is a resident of a nursing home, in which case the authorization shall be valid until revoked, or for any time period specified in the authorization; and

(5) Apply only to a medical record developed by the health care provider unless in writing:

(i) The authorization specifies disclosure of a medical record that the health care provider has received from another provider; and

(ii) The other provider has not prohibited redisclosure.

(c) A health care provider shall disclose a medical record on receipt of a preauthorized form that is part of an application for insurance.

(D) A HEALTH CARE PROVIDER SHALL DISCLOSE A MEDICAL RECORD ON RECEIPT OF AN AUTHORIZATION FOR THE RELEASE OF MEDICAL INFORMATION THAT IS FILED WITH THE WORKERS' COMPENSATION COMMISSION.

[(d)] (E) (1) Except in cases of criminal justice referrals, a person in interest may revoke an authorization in writing.

(2) A revocation of an authorization becomes effective on the date of receipt by the health care provider.

(3) A disclosure made before the effective date of a revocation is not affected by the revocation.

[(e)] (F) A copy of the following shall be entered in the medical record of a patient or recipient:

(1) A written authorization;

(2) Any action taken in response to an authorization; and

(3) Any revocation of an authorization.

Article - Labor and Employment

9-709.

(a) Except as provided in subsection (c) of this section, if a covered employee suffers an accidental personal injury, the covered employee, within 60 days after the date of the accidental personal injury, shall file with the Commission:

(1) a claim application form; [and]

(2) AN AUTHORIZATION FOR THE RELEASE OF RELEVANT MEDICAL INFORMATION; AND

[(2)] (3) if the covered employee was attended by a physician chosen by the covered employee, the report of the physician.

(b) (1) Unless excused by the Commission under paragraph (2) of this subsection, failure to file a claim in accordance with subsection (a) of this section bars a claim under this title.

(2) The Commission may excuse a failure to file a claim in accordance with subsection (a) of this section if the Commission finds:

(Over)

(i) that the employer or its insurer has not been prejudiced by the failure to file the claim; or

(ii) another sufficient reason.

(3) Notwithstanding paragraphs (1) and (2) of this subsection, if a covered employee fails to file a claim within 2 years after the date of the accidental personal injury, the claim is completely barred.

(c) If a covered employee is disabled due to an accidental personal injury from ionizing radiation, the covered employee shall file a claim with the Commission within 2 years after:

(1) the date of disablement; or

(2) the date when the covered employee first knew that the disablement was due to ionizing radiation.

(d) (1) If it is established that a failure to file a claim in accordance with this section was caused by fraud or by facts and circumstances amounting to an estoppel, the covered employee shall file a claim with the Commission within 1 year after:

(i) the date of the discovery of the fraud; or

(ii) the date when the facts and circumstances that amount to estoppel ceased to operate.

(2) Failure to file a claim in accordance with paragraph (1) of this subsection bars a claim under this title.

9-710.

(a) This section does not apply to a claim for death due to an accidental personal injury from ionizing radiation.

(b) If a covered employee dies from an accidental personal injury, the dependents of the covered employee or an individual on their behalf shall, within 18 months after the date of death, file with the Commission:

(1) a claim application form;

(2) AN AUTHORIZATION FOR THE RELEASE OF RELEVANT MEDICAL INFORMATION;

[(2)] (3) proof of death;

[(3)] (4) certificates of any physician who attended the covered employee; and

[(4)] (5) any other proof that the Commission may require by regulation.

(c) (1) If it is established that a failure to file a claim in accordance with this section was caused by fraud or by facts and circumstances amounting to an estoppel, the dependents of the covered employee or an individual on their behalf shall file a claim [application] with the Commission within 1 year after:

(i) the date of the discovery of the fraud; or

(ii) the date when the facts and circumstances that amount to estoppel cease to operate.

(2) Failure to file a claim [application] in accordance with paragraph (1) of this subsection bars a claim under this title.

9-711.

(a) If a covered employee suffers a disablement or death as a result of an occupational disease, the covered employee or the dependents of the covered employee shall file a claim APPLICATION FORM AND AN AUTHORIZATION FOR THE RELEASE OF RELEVANT

(Over)

MEDICAL INFORMATION with the Commission within 2 years, or in the case of pulmonary dust disease within 3 years, after the date:

(1) of disablement or death; or

(2) when the covered employee or the dependents of the covered employee first had actual knowledge that the disablement was caused by the employment.

(b) Unless waived under subsection (c) of this section, failure to file a claim in accordance with subsection (a) of this section bars a claim under this title.

(c) The defense of failure to file a claim in accordance with subsection (a) of this section is waived if the employer or its insurer:

(1) fails to raise the defense of the failure to file the claim at a hearing on the claim before the Commission makes any award or decision;

(2) pays compensation for the disability or death resulting from the occupational disease; or

(3) by its affirmative conduct leads the covered employee or other claimant to reasonably believe that the requirement of filing a claim has been waived.”.