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By: **Senators Hollinger, Frosh, and Grosfeld** Introduced and read first time: January 18, 2006 Assigned to: Education, Health, and Environmental Affairs

### A BILL ENTITLED

1 AN ACT concerning

# Health Care Providers - Disclosures of Mental Health Records - Subpoenas

3 FOR the purpose of requiring a health care provider to disclose a certain medical

4 record without certain authorization to certain boards if certain documents are

5 attached to a certain subpoena; and generally relating to the disclosure of

6 medical records to health professional licensing and disciplinary boards.

7 BY repealing and reenacting, without amendments,

8 Article - Health - General

9 Section 4-306(b)(6)

- 10 Annotated Code of Maryland
- 11 (2005 Replacement Volume and 2005 Supplement)

12 BY repealing and reenacting, with amendments,

- 13 Article Health General
- 14 Section 4-307(k)(1)(v)
- 15 Annotated Code of Maryland
- 16 (2005 Replacement Volume and 2005 Supplement)

## 17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

18 MARYLAND, That the Laws of Maryland read as follows:

19

#### Article - Health - General

20 4-306.

21 (b) A health care provider shall disclose a medical record without the 22 authorization of a person in interest:

23 (6) Subject to the additional limitations for a medical record developed

24 primarily in connection with the provision of mental health services in § 4-307 of this

25 subtitle and except as otherwise provided in items (2), (7), and (8) of this subsection,

26 in accordance with compulsory process, if the health care provider receives:

## **UNOFFICIAL COPY OF SENATE BILL 142**

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1 2	(i) 1 representing the party seeking th		A written assurance from the party or the attorney al records that:
3 4			A person in interest has not objected to the disclosure of ays have elapsed since the notice was sent; or
5 6	I and the request for disclosure is		The objections of a person in interest have been resolved dance with the resolution;
7 8	2 court order has been waived by t		Proof that service of the subpoena, summons, warrant, or t for good cause; or
9 10	) disclosure of the designated me		A copy of an order entered by a court expressly authorizing cords; and
13	2 the following items that were m	ailed by	osures made under item (i) of this paragraph, copies of certified mail to the person in interest by the 30 days before the records are to be
15 16	5 6 the disclosure or production of t		The subpoena, summons, warrant, or court order seeking rds;
17	7 2	2.	This section; and
18 19	3 3 9 form:	3.	A notice in the following form or a substantially similar
20	)	_	In the
21	l Plaintiffs		
22	2 v.		For
23	3		
	Defendants	_	
25	5	(	Case No.:
26	<u>í</u>		NOTICE TO (Patient Name)
27			E WITH § 4-306 OF THE HEALTH - GENERAL ARTICLE,
28	3		ANNOTATED CODE OF MARYLAND
29	TAKE NOTE that medical	records	regarding (Patient Name), have been

30 subpoenaed from the (Name and address of Health Care Provider) pursuant to the 31 attached subpoena and § 4-306 of the Health - General Article, Annotated Code of

#### **UNOFFICIAL COPY OF SENATE BILL 142**

1 Maryland. This subpoena \_\_\_\_\_ does \_\_\_\_ does not (mark one) seek production of 2 months health records

2 mental health records.

Please examine these papers carefully. IF YOU HAVE ANY OBJECTION TO
THE PRODUCTION OF THESE DOCUMENTS, YOU MUST FILE A MOTION FOR
A PROTECTIVE ORDER OR A MOTION TO QUASH THE SUBPOENA ISSUED
FOR THESE DOCUMENTS UNDER MARYLAND RULES 2-403 AND 2-510 NO
LATER THAN THIRTY (30) DAYS FROM THE DATE THIS NOTICE IS MAILED.
For example, a protective order may be granted if the records are not relevant to the
issues in this case, the request unduly invades your privacy, or causes you specific
harm.

11 Also attached to this form is a copy of the subpoena duces tecum issued for these 12 records.

13 If you believe you need further legal advice about this matter, you should consult14 your attorney.

## 22 Certificate of Service

- 23 I hereby certify that a copy of the foregoing notice was mailed, first-class
- 24 postage prepaid, this \_\_\_\_ day of \_\_\_\_\_, 200\_ to

25

26 Patient

27

28 Each Counsel in Case

29 \_\_\_\_\_

30 Attorney

31 4-307.

32 (k) (1) A health care provider shall disclose a medical record without the 33 authorization of a person in interest:

34 (v) In accordance with a subpoena for medical records on specific

35 recipients:

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#### **UNOFFICIAL COPY OF SENATE BILL 142**

1 1. To health professional licensing and disciplinary boards 2 for the sole purpose of an investigation regarding licensure, certification, or discipline 3 of a health professional or the improper practice of a health profession IF THE 4 DOCUMENTS DESCRIBED UNDER § 4-306(B)(6) ARE ATTACHED TO THE SUBPOENA; 5 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 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect 20 October 1, 2006.

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