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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

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A BILL ENTITLED

1 AN ACT concerning

2 **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:

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1 (i) 1. A written assurance from the party or the attorney  
2 representing the party seeking the medical records that:

3 A. A person in interest has not objected to the disclosure of  
4 the designated medical records and 30 days have elapsed since the notice was sent; or

5 B. The objections of a person in interest have been resolved  
6 and the request for disclosure is in accordance with the resolution;

7 2. Proof that service of the subpoena, summons, warrant, or  
8 court order has been waived by the court for good cause; or

9 3. A copy of an order entered by a court expressly authorizing  
10 disclosure of the designated medical records; and

11 (ii) For disclosures made under item (i) of this paragraph, copies of  
12 the following items that were mailed by certified mail to the person in interest by the  
13 person requesting the disclosure at least 30 days before the records are to be  
14 disclosed:

15 1. The subpoena, summons, warrant, or court order seeking  
16 the disclosure or production of the records;

17 2. This section; and

18 3. A notice in the following form or a substantially similar  
19 form:

20 \_\_\_\_\_ In the  
21 Plaintiffs \_\_\_\_\_

22 v. For  
\_\_\_\_\_

23 \_\_\_\_\_  
24 Defendants

25 Case No.: \_\_\_\_\_

26 NOTICE TO (Patient Name)  
27 IN COMPLIANCE WITH § 4-306 OF THE HEALTH - GENERAL ARTICLE,  
28 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

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

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

15 \_\_\_\_\_  
16 Attorney  
17 (Firm Name  
18 Attorney address  
19 Attorney phone number)

20 Attorneys for (Name of Party  
21 Represented)

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:

