
By: **Senator Kittleman**
Introduced and read first time: February 3, 2006
Assigned to: Finance

Committee Report: Favorable with amendments
Senate action: Adopted
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CHAPTER _____

1 AN ACT concerning

2 **Workers' Compensation Commission - Authorization for Release of Medical**
3 **Records - Permitted Disclosures Information - Work-Related Injury or**
4 **Occupational Disease**

5 FOR the purpose of requiring a ~~health care provider to disclose a medical record~~
6 ~~without certain authorization to an employer, insurer, uninsured employer's~~
7 ~~fund, or a subsequent injury fund for the purpose of a certain investigation of an~~
8 authorization for the release of certain medical information to be filed with the
9 Workers' Compensation Commission when a claim is filed for an alleged
10 work-related injury or occupational disease; requiring a health care provider to
11 disclose certain medical information on receipt of a certain authorization filed
12 with the Commission; and generally relating to the ~~permitted disclosure of~~
13 ~~medical records~~ authorization for the release of medical information and the
14 filing of workers' compensation claims.

15 BY ~~adding to~~ repealing and reenacting, with amendments,
16 Article - Health - General
17 Section ~~4-306(b)(11)~~ 4-303
18 Annotated Code of Maryland
19 (2005 Replacement Volume and 2005 Supplement)

20 BY repealing and reenacting, with amendments,
21 Article - Labor and Employment
22 Section 9-709, 9-710, and 9-711
23 Annotated Code of Maryland
24 (1999 Replacement Volume and 2005 Supplement)

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article - Health - General**

4 ~~4-306.~~

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

7 ~~(11) TO AN EMPLOYER OR INSURER, AN UNINSURED EMPLOYER'S FUND,~~
8 ~~OR A SUBSEQUENT INJURY FUND, FOR THE PURPOSE OF INVESTIGATING THE~~
9 ~~COMPENSABILITY OR NATURE AND EXTENT OF AN ALLEGED WORK RELATED~~
10 ~~INJURY OR OCCUPATIONAL DISEASE.~~

11 4-303.

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

14 (b) Except as otherwise provided in [subsection (c)] SUBSECTIONS (C) AND (D)
15 of this section, an authorization shall:

16 (1) Be in writing, dated, and signed by the person in interest;

17 (2) State the name of the health care provider;

18 (3) Identify to whom the information is to be disclosed;

19 (4) State the period of time that the authorization is valid, which may
20 not exceed 1 year, except:

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

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

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

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

30 (ii) The other provider has not prohibited redisclosure.

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

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

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

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

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

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

12 (1) A written authorization;

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

14 (3) Any revocation of an authorization.

15 **Article - Labor and Employment**

16 9-709.

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

20 (1) a claim application form; [and]

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

23 [(2)] (3) if the covered employee was attended by a physician chosen by
 24 the covered employee, the report of the physician.

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

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

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

32 (ii) another sufficient reason.

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

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

7 (1) the date of disablement; or

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

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

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

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

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

18 9-710.

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

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

24 (1) a claim application form;

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

27 (2) (3) proof of death;

28 (3) (4) certificates of any physician who attended the covered
29 employee; and

30 (4) (5) any other proof that the Commission may require by regulation.

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

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

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

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

6 9-711.

7 (a) If a covered employee suffers a disablement or death as a result of an
8 occupational disease, the covered employee or the dependents of the covered employee
9 shall file a claim APPLICATION FORM AND AN AUTHORIZATION FOR THE RELEASE OF
10 RELEVANT MEDICAL INFORMATION with the Commission within 2 years, or in the
11 case of pulmonary dust disease within 3 years, after the date:

12 (1) of disablement or death; or

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

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

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

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

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

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

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 2006.