

SENATE BILL 600

K1
SB 802/06 – FIN

71r0664

By: **Senator Kittleman**

Introduced and read first time: February 2, 2007

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 24, 2007

CHAPTER _____

1 AN ACT concerning

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

4 FOR the purpose of requiring certain claim application forms that are filed with the
5 Workers' Compensation Commission for an alleged work-related injury or
6 occupational disease to include an authorization for the release to certain
7 persons of certain medical information to be filed with the Workers'
8 Compensation Commission when a claim is filed for an alleged work-related
9 injury or occupational disease; providing that an authorization includes the
10 release of certain information, is effective for a certain period of time, and does
11 not restrict the redisclosure of certain medical information or written material
12 to certain persons; requiring a health care provider to disclose certain medical
13 information on receipt of a certain authorization filed with the Commission; and
14 generally relating to the authorization for the release of medical information in
15 a certain manner and the filing of workers' compensation claims.

16 BY repealing and reenacting, with amendments,
17 Article – Health – General
18 Section 4-303
19 Annotated Code of Maryland
20 (2005 Replacement Volume and 2006 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY repealing and reenacting, with amendments,
2 Article – Labor and Employment
3 Section 9–709, 9–710, and 9–711
4 Annotated Code of Maryland
5 (1999 Replacement Volume and 2006 Supplement)

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

8 **Article – Health – General**

9 4–303.

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

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

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

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

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

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

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

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

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

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

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

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

4 **(D) A HEALTH CARE PROVIDER SHALL DISCLOSE A MEDICAL RECORD**
5 **ON RECEIPT OF AN AUTHORIZATION FOR THE RELEASE OF RELEVANT MEDICAL**
6 **INFORMATION THAT IS INCLUDED WITH THE CLAIM APPLICATION FORM FILED**
7 **WITH THE WORKERS' COMPENSATION COMMISSION IN ACCORDANCE WITH §**
8 **9-709(A), § 9-710(B), OR § 9-711(A) OF THE LABOR AND EMPLOYMENT**
9 **ARTICLE.**

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

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

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

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

18 (1) A written authorization;

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

20 (3) Any revocation of an authorization.

21 **Article - Labor and Employment**

22 9-709.

23 (a) **(1)** Except as provided in subsection (c) of this section, if a covered employee
24 suffers an accidental personal injury, the covered employee, within 60 days after the
25 date of the accidental personal injury, shall file with the Commission:

26 ~~(1)~~ **(1)** a claim application form; ~~and~~

27 ~~(2) AN AUTHORIZATION FOR THE SIMULTANEOUS RELEASE OF~~
28 ~~ALL RELEVANT MEDICAL INFORMATION; AND~~

1 [(2)] ~~(3)~~ (II) if the covered employee was attended by a physician chosen
2 by the covered employee, the report of the physician.

3 **(2) (I) A CLAIM APPLICATION FORM FILED UNDER PARAGRAPH**
4 **(1) OF THIS SUBSECTION SHALL INCLUDE AN AUTHORIZATION BY THE**
5 **CLAIMANT FOR THE RELEASE, TO THE CLAIMANT'S ATTORNEY, THE CLAIMANT'S**
6 **EMPLOYER, AND THE INSURER OF THE CLAIMANT'S EMPLOYER, OR AN AGENT**
7 **OF THE CLAIMANT'S ATTORNEY, THE CLAIMANT'S EMPLOYER, OR THE INSURER**
8 **OF THE CLAIMANT'S EMPLOYER, OF MEDICAL INFORMATION THAT IS RELEVANT**
9 **TO:**

10 **1. THE MEMBER OF THE BODY THAT WAS INJURED,**
11 **AS INDICATED ON THE CLAIM APPLICATION FORM; AND**

12 **2. THE DESCRIPTION OF HOW THE ACCIDENTAL**
13 **PERSONAL INJURY OCCURRED, AS INDICATED ON THE CLAIM APPLICATION**
14 **FORM.**

15 **(II) AN AUTHORIZATION UNDER SUBPARAGRAPH (I) OF THIS**
16 **PARAGRAPH:**

17 **1. INCLUDES THE RELEASE OF INFORMATION**
18 **RELATING TO THE HISTORY, FINDINGS, OFFICE AND PATIENT CHARTS, FILES,**
19 **EXAMINATION AND PROGRESS NOTES, AND PHYSICAL EVIDENCE;**

20 **2. IS EFFECTIVE FOR 1 YEAR FROM THE DATE THE**
21 **CLAIM IS FILED; AND**

22 **3. DOES NOT RESTRICT THE REDISCLOSURE OF**
23 **MEDICAL INFORMATION OR WRITTEN MATERIAL RELATING TO THE**
24 **AUTHORIZATION TO A MEDICAL MANAGER, HEALTH CARE PROFESSIONAL, OR**
25 **CERTIFIED REHABILITATION PRACTITIONER.**

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

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

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

3 (ii) another sufficient reason.

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

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

10 (1) the date of disablement; or

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

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

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

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

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

22 9-710.

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

25 (b) **(1)** If a covered employee dies from an accidental personal injury, the
26 dependents of the covered employee or an individual on their behalf shall, within 18
27 months after the date of death, file with the Commission:

28 ~~(1)~~ **(1)** a claim application form;

1 ~~(2) AN AUTHORIZATION FOR THE SIMULTANEOUS RELEASE OF~~
 2 ~~ALL RELEVANT MEDICAL INFORMATION;~~

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

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

6 [(4)] ~~(5)~~ (IV) any other proof that the Commission may require by
 7 regulation.

8 (2) (I) A CLAIM APPLICATION FORM FILED UNDER PARAGRAPH
 9 (1) OF THIS SUBSECTION SHALL INCLUDE AN AUTHORIZATION BY THE
 10 CLAIMANT FOR THE RELEASE, TO THE CLAIMANT'S ATTORNEY, THE COVERED
 11 EMPLOYEE'S EMPLOYER, AND THE INSURER OF THE COVERED EMPLOYEE'S
 12 EMPLOYER, OR AN AGENT OF THE CLAIMANT'S ATTORNEY, THE COVERED
 13 EMPLOYEE'S EMPLOYER, OR THE INSURER OF THE COVERED EMPLOYEE'S
 14 EMPLOYER, OF MEDICAL INFORMATION THAT IS RELEVANT TO:

15 1. THE MEMBER OF THE BODY THAT WAS INJURED,
 16 AS INDICATED ON THE CLAIM APPLICATION FORM; AND

17 2. THE DESCRIPTION OF HOW THE ACCIDENTAL
 18 PERSONAL INJURY OCCURRED, AS INDICATED ON THE CLAIM APPLICATION
 19 FORM.

20 (II) AN AUTHORIZATION UNDER SUBPARAGRAPH (I) OF THIS
 21 PARAGRAPH:

22 1. INCLUDES THE RELEASE OF INFORMATION
 23 RELATING TO THE HISTORY, FINDINGS, OFFICE AND PATIENT CHARTS, FILES,
 24 EXAMINATION AND PROGRESS NOTES, AND PHYSICAL EVIDENCE;

25 2. IS EFFECTIVE FOR 1 YEAR FROM THE DATE THE
 26 CLAIM IS FILED; AND

27 3. DOES NOT RESTRICT THE REDISCLOSURE OF
 28 MEDICAL INFORMATION OR WRITTEN MATERIAL RELATING TO THE
 29 AUTHORIZATION TO A MEDICAL MANAGER, HEALTH CARE PROFESSIONAL, OR
 30 CERTIFIED REHABILITATION PRACTITIONER.

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

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

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

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

10 9-711.

11 (a) **(1)** If a covered employee suffers a disablement or death as a result of an
 12 occupational disease, the covered employee or the dependents of the covered employee
 13 shall file a claim **APPLICATION FORM AND AN AUTHORIZATION FOR THE**
 14 **~~SIMULTANEOUS RELEASE OF ALL RELEVANT MEDICAL INFORMATION~~** with the
 15 Commission within 2 years, or in the case of pulmonary dust disease within 3 years,
 16 after the date:

17 ~~(1)~~ **(I)** of disablement or death; or

18 ~~(2)~~ **(II)** when the covered employee or the dependents of the covered
 19 employee first had actual knowledge that the disablement was caused by the
 20 employment.

21 **(2) (I) A CLAIM APPLICATION FORM FILED UNDER PARAGRAPH**
 22 **(1) OF THIS SUBSECTION SHALL INCLUDE AN AUTHORIZATION BY THE**
 23 **CLAIMANT FOR THE RELEASE, TO THE CLAIMANT'S ATTORNEY, THE CLAIMANT'S**
 24 **OR COVERED EMPLOYEE'S EMPLOYER, AND THE INSURER OF THE CLAIMANT'S**
 25 **OR COVERED EMPLOYEE'S EMPLOYER, OR AN AGENT OF THE CLAIMANT'S**
 26 **ATTORNEY, THE CLAIMANT'S OR COVERED EMPLOYEE'S EMPLOYER, OR THE**
 27 **INSURER OF THE CLAIMANT'S OR COVERED EMPLOYEE'S EMPLOYER, OF**
 28 **MEDICAL INFORMATION THAT IS RELEVANT TO:**

29 **1. THE MEMBER OF THE BODY THAT WAS INJURED,**
 30 **AS INDICATED ON THE CLAIM APPLICATION FORM; AND**

1 **2. THE DESCRIPTION OF HOW THE OCCUPATIONAL**
2 **DISEASE OCCURRED, AS INDICATED ON THE CLAIM APPLICATION FORM.**

3 **(II) AN AUTHORIZATION UNDER SUBPARAGRAPH (I) OF THIS**
4 **PARAGRAPH:**

5 **1. INCLUDES THE RELEASE OF INFORMATION**
6 **RELATING TO THE HISTORY, FINDINGS, OFFICE AND PATIENT CHARTS, FILES,**
7 **EXAMINATION AND PROGRESS NOTES, AND PHYSICAL EVIDENCE;**

8 **2. IS EFFECTIVE FOR 1 YEAR FROM THE DATE THE**
9 **CLAIM IS FILED; AND**

10 **3. DOES NOT RESTRICT THE REDISCLOSURE OF**
11 **MEDICAL INFORMATION OR WRITTEN MATERIAL RELATING TO THE**
12 **AUTHORIZATION TO A MEDICAL MANAGER, HEALTH CARE PROFESSIONAL, OR**
13 **CERTIFIED REHABILITATION PRACTITIONER.**

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

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

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

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

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

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 October 1, 2007.