

CHAPTER 167

(Senate Bill 600)

AN ACT concerning

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

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

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

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 2006 Supplement)

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

Article – Health – General

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 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 RELEVANT MEDICAL INFORMATION THAT IS INCLUDED WITH THE CLAIM APPLICATION FORM FILED WITH THE WORKERS' COMPENSATION COMMISSION IN ACCORDANCE WITH § 9-709(A), § 9-710(B), OR § 9-711(A) OF THE LABOR AND EMPLOYMENT ARTICLE.

[(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) (1) 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)~~ (I) a claim application form; ~~and~~

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

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

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

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

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

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

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

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

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

(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:

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

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

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

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

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

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

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

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

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

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

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

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

(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) **(1)** 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 SIMULTANEOUS RELEASE OF ALL RELEVANT MEDICAL INFORMATION** with the Commission within 2 years, or in the case of pulmonary dust disease within 3 years, after the date:

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

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

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

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

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

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

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

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

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

(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.

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

Approved by the Governor, April 24, 2007.