

HOUSE BILL 1364

J2, R3

8lr2876

By: **Delegate Sossi**

Introduced and read first time: February 8, 2008

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Medical Records – Disclosure – Blood Alcohol Concentration**

3 FOR the purpose of authorizing a health care provider to disclose a certain medical
4 record without the authorization of a person in interest to a certain law
5 enforcement agency or officer if a certain health care provider becomes aware
6 that the individual's blood alcohol concentration meets or exceeds a certain
7 percentage under certain circumstances; and generally relating to disclosure of
8 medical records relating to blood alcohol concentration.

9 BY repealing and reenacting, with amendments,
10 Article – Health – General
11 Section 4–305
12 Annotated Code of Maryland
13 (2005 Replacement Volume and 2007 Supplement)

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

16 **Article – Health – General**

17 4–305.

18 (a) This section may not be construed to impose an obligation on a health
19 care provider to disclose a medical record.

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

22 (1) (i) To the provider's authorized employees, agents, medical
23 staff, medical students, or consultants for the sole purpose of offering, providing,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 evaluating, or seeking payment for health care to patients or recipients by the
2 provider;

3 (ii) To the provider's legal counsel regarding only the
4 information in the medical record that relates to the subject matter of the
5 representation; or

6 (iii) To any provider's insurer or legal counsel, or the authorized
7 employees or agents of a provider's insurer or legal counsel, for the sole purpose of
8 handling a potential or actual claim against any provider if the medical record is
9 maintained on the claimant and relates to the subject matter of the claim;

10 (2) If the person given access to the medical record signs an
11 acknowledgment of the duty under this Act not to redisclose any patient identifying
12 information, to a person for:

13 (i) Educational or research purposes, subject to the applicable
14 requirements of an institutional review board;

15 (ii) Evaluation and management of health care delivery
16 systems; or

17 (iii) Accreditation of a facility by professional standard setting
18 entities;

19 (3) Subject to the additional limitations for a medical record developed
20 primarily in connection with the provision of mental health services in § 4-307 of this
21 subtitle, to a government agency performing its lawful duties as authorized by an act
22 of the Maryland General Assembly or the United States Congress;

23 (4) 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, to another health care provider for the sole purpose of treating the patient or
26 recipient on whom the medical record is kept;

27 (5) If a claim has been or may be filed by, or with the authorization of
28 a patient or recipient on behalf of the patient or recipient, for covered insureds,
29 covered beneficiaries, or enrolled recipients only, to third party payors and their
30 agents, if the payors or agents have met the applicable provisions of Title 19, Subtitle
31 13 of this article, including nonprofit health service plans, health maintenance
32 organizations, fiscal intermediaries and carriers, the Department of Health and
33 Mental Hygiene and its agents, the United States Department of Health and Human
34 Services and its agents, or any other person obligated by contract or law to pay for the
35 health care rendered for the sole purposes of:

36 (i) Submitting a bill to the third party payor;

1 (ii) Reasonable prospective, concurrent, or retrospective
2 utilization review or predetermination of benefit coverage;

3 (iii) Review, audit, and investigation of a specific claim for
4 payment of benefits; or

5 (iv) Coordinating benefit payments in accordance with the
6 provisions of the Insurance Article under more than 1 sickness and accident, dental, or
7 hospital and medical insurance policy;

8 (6) If a health care provider makes a professional determination that
9 an immediate disclosure is necessary, to provide for the emergency health care needs
10 of a patient or recipient;

11 **(7) TO A LAW ENFORCEMENT AGENCY OR OFFICER IF A HEALTH**
12 **CARE PROVIDER THAT IS PROVIDING MEDICAL CARE IMMEDIATELY AFTER A**
13 **MOTOR VEHICLE ACCIDENT TO AN INDIVIDUAL REASONABLY BELIEVED TO BE**
14 **THE OPERATOR OF A MOTOR VEHICLE INVOLVED IN THE ACCIDENT BECOMES**
15 **AWARE, AS A RESULT OF ANY BLOOD TEST PERFORMED IN THE COURSE OF THAT**
16 **TREATMENT, THAT THE INDIVIDUAL'S BLOOD ALCOHOL CONCENTRATION**
17 **MEETS OR EXCEEDS 0.08%;**

18 **[(7)] (8)** Except if the patient has instructed the health care provider
19 not to make the disclosure, or if the record has been developed primarily in connection
20 with the provision of mental health services, to immediate family members of the
21 patient or any other individual with whom the patient is known to have a close
22 personal relationship, if made in accordance with good medical or other professional
23 practice;

24 **[(8)] (9)** To an appropriate organ, tissue, or eye recovery agency
25 under the restrictions of § 5–408 of this article for a patient whose organs and tissues
26 may be donated for the purpose of evaluating the patient for possible organ and tissue
27 donation;

28 **[(9)] (10)** To the Department of Health and Mental Hygiene or an
29 organ, tissue, or eye recovery agency designated by the Department for the purpose of
30 conducting death record reviews under § 19–310 of this article; or

31 **[(10)] (11)** Subject to subsection (c) of this section, if the purpose of the
32 medical record disclosure is for the coordination of services and record retention within
33 the Montgomery County Department of Health and Human Services.

34 (c) (1) The disclosure of medical records under subsection **[(b)(10)]**
35 **(B)(11)** of this section to a person that is not employed by or under contract with the
36 Montgomery County Department of Health and Human Services shall be conducted in
37 accordance with this subtitle.

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1 (2) Under provisions of State law regarding confidentiality, the
2 Montgomery County Department of Health and Human Services shall be considered to
3 be one agency.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2008.