

CHAPTER 270

(House Bill 393)

AN ACT concerning

Communicable Diseases or Conditions – Reporting

FOR the purpose of ~~repealing certain requirements for certain reports made by physicians and institutions regarding infectious and contagious diseases; providing that certain reports made by physicians and institutions regarding infectious and contagious diseases are confidential and are not medical records; providing that certain physician and institution reports are not discoverable~~ requiring certain individuals to submit a certain report to a certain health officer under certain circumstances; requiring certain reports to contain certain information, be in a certain format, and be transmitted in a certain manner; providing that certain provisions of this Act do not apply to or restrict the use of certain statistics, information, or other material; authorizing the Secretary of Health and Mental Hygiene to disseminate and disclose certain information under certain circumstances; repealing the time limitation in which the director of certain medical laboratories has to make a certain report; requiring the director of the State's public health laboratory to submit a certain report to the Secretary under certain circumstances; requiring the director of a medical laboratory to submit clinical material to the Secretary under certain circumstances; repealing the list of the diseases or conditions that are reportable by a medical laboratory director; authorizing the Secretary to discuss certain laboratory reports with certain healthcare providers and with a patient in a certain manner under certain circumstances; ~~providing that certain reports made by a medical laboratory director regarding infectious and contagious diseases are confidential and are not medical records; providing that certain reports made by a medical laboratory are not discoverable~~ requiring the Secretary to adopt certain regulations; defining a certain term; and generally relating to the reporting of communicable diseases and conditions.

BY repealing and reenacting, with amendments,
 Article – Health – General
 Section 18–201, 18–202, and 18–205
 Annotated Code of Maryland
 (2005 Replacement Volume and 2007 Supplement)

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

Article – Health – General

18-201.

(a) A physician with reason to suspect that a patient under the physician's care has A CONDITION OR an infectious or contagious disease, except human immunodeficiency virus or acquired immunodeficiency syndrome, that endangers public health AND THAT HAS BEEN DESIGNATED BY THE SECRETARY AS REPORTABLE shall submit immediately a report to the health officer for the county where the physician cares for that patient.

(b) ~~¶~~The report shall:

(1) CONTAIN THE INFORMATION AND BE IN A FORMAT SPECIFIED OR APPROVED BY THE SECRETARY; AND

(2) BE TRANSMITTED AS DIRECTED BY THE SECRETARY.

~~(1) Be on the form that the Secretary provides;~~

~~(2) Identify the disease or suspected disease;~~

~~(3) State the name, age, race, sex, and residence address of the patient; and~~

~~(4) Be signed by the physician.~~

(c) (1) All physician reports required under this section are:

(i) Confidential;

(ii) Not open to public inspection; and

(iii) Subject to subpoena or discovery in any criminal or civil proceeding only pursuant to a court order sealing the court record. ~~(1) ALL REPORTS REQUIRED UNDER THIS SECTION:~~

~~(I) ARE CONFIDENTIAL AND SUBJECT TO TITLE 4, SUBTITLE 1 OF THIS ARTICLE; BUT~~

~~(II) ARE NOT MEDICAL RECORDS UNDER TITLE 4, SUBTITLE 3 OF THIS ARTICLE.~~

~~(2) EXCEPT AS PROVIDED UNDER PARAGRAPHS (3), (4), AND (5) OF THIS SECTION, THE REPORTS AND ANY PROCEEDINGS, RECORDS, OR FILES ASSEMBLED, GENERATED, OR COMPILED IN ACCORDANCE WITH A REPORT~~

~~MADE UNDER THIS SECTION ARE NOT DISCOVERABLE AND ARE NOT ADMISSIBLE IN EVIDENCE IN ANY CIVIL OR CRIMINAL MATTER.~~

~~(3)~~ (2) THE SECRETARY MAY PREPARE AND DISSEMINATE GENERALLY NONINDIVIDUALLY IDENTIFIABLE INFORMATION ABOUT ONE OR MORE CASES OF A CONDITION OR DISEASE BASED ON ANY REPORT RECEIVED UNDER THIS SECTION, FOR ANY PURPOSE CONSISTENT WITH THE SECRETARY'S LAWFUL DUTIES AS AUTHORIZED BY AN ACT OF THE MARYLAND GENERAL ASSEMBLY.

(3) THIS SUBSECTION DOES NOT APPLY TO OR RESTRICT THE USE OR PUBLICATION OF ANY STATISTICS, INFORMATION, OR OTHER MATERIAL THAT SUMMARIZES OR REFERS TO CONFIDENTIAL RECORDS IN THE AGGREGATE, WITHOUT DISCLOSING THE IDENTITY OF ANY INDIVIDUAL WHO IS THE SUBJECT OF THE CONFIDENTIAL RECORD.

[2)] (4) This subsection does not apply to a disclosure by the Secretary to another governmental agency performing its lawful duties as authorized by an act of the Maryland General Assembly or the United States Congress where the Secretary determines that:

(i) The agency to whom the information is disclosed will maintain the confidentiality of the disclosure; and

(ii) The disclosure is necessary to protect the public health or to prevent the spread of an infectious or contagious disease.

~~(5) NOTWITHSTANDING PARAGRAPHS (1) THROUGH (4) OF THIS SUBSECTION, DISCLOSURE OF INFORMATION OBTAINED IN ACCORDANCE WITH A REPORT RECEIVED UNDER THIS SECTION MAY BE MADE:~~

~~(I) TO A GOVERNMENTAL ENTITY FOR THE PURPOSE OF TAKING ENFORCEMENT ACTION AUTHORIZED BY STATUTE OR REGULATIONS OR TAKING ACTION TO PROTECT THE PUBLIC HEALTH OR SAFETY; OR~~

~~(II) TO A PERSON FOR THE PURPOSE OF INVESTIGATION OF A REPORT OBTAINED UNDER THIS SECTION IN ACCORDANCE WITH PROCEDURES ESTABLISHED BY THE SECRETARY IN REGULATIONS.~~

18-202.

(a) In this section, "institution" includes:

(1) A hospital; and

- (2) A lodging facility.

(b) When the administrative head of an institution has reason to believe that an individual on the premises of the institution has A CONDITION OR an infectious or contagious disease, except human immunodeficiency virus or acquired immunodeficiency syndrome, THAT HAS BEEN DESIGNATED BY THE SECRETARY AS REPORTABLE, the administrative head immediately shall submit a report to the health officer for the county where the institution is located.

- (c) ~~¶~~The report shall:

(1) CONTAIN THE INFORMATION AND BE IN A FORMAT SPECIFIED OR APPROVED BY THE SECRETARY; AND

(2) BE TRANSMITTED AS DIRECTED BY THE SECRETARY.

~~(1) State the name and residence address of the individual believed to have the disease;~~

~~(2) Identify the infectious or contagious disease;~~

~~(3) State the name of the administrative head of the institution; and~~

~~(4) State the address of the institution.~~

- (d) (1) All institution reports required under this section are:

(i) Confidential;

(ii) Not open to public inspection; and

(iii) Subject to subpoena or discovery in any criminal or civil proceeding only pursuant to a court order sealing the court record. ~~¶ (1) ALL REPORTS REQUIRED UNDER THIS SECTION:~~

~~(I) ARE CONFIDENTIAL AND SUBJECT TO TITLE 4, SUBTITLE 1 OF THIS ARTICLE; BUT~~

~~(II) ARE NOT MEDICAL RECORDS UNDER TITLE 4, SUBTITLE 3 OF THIS ARTICLE.~~

~~(2) EXCEPT AS PROVIDED UNDER PARAGRAPHS (3), (4), AND (5) OF THIS SUBSECTION, THE REPORTS AND ANY PROCEEDINGS, RECORDS, OR FILES ASSEMBLED, GENERATED, OR COMPILED IN ACCORDANCE WITH A~~

~~REPORT MADE UNDER THIS SECTION ARE NOT DISCOVERABLE AND ARE NOT ADMISSIBLE IN EVIDENCE IN ANY CIVIL OR CRIMINAL MATTER.~~

(2) THIS SUBSECTION DOES NOT APPLY TO OR RESTRICT THE USE OR PUBLICATION OF ANY STATISTICS, INFORMATION, OR OTHER MATERIAL THAT SUMMARIZES OR REFERS TO CONFIDENTIAL RECORDS IN THE AGGREGATE, WITHOUT DISCLOSING THE IDENTITY OF ANY INDIVIDUAL WHO IS THE SUBJECT OF THE CONFIDENTIAL RECORD.

(3) THE SECRETARY MAY PREPARE AND DISSEMINATE ~~GENERALLY~~ NONINDIVIDUALLY IDENTIFIABLE INFORMATION ABOUT ONE OR MORE CASES OF A CONDITION OR A DISEASE BASED ON ANY REPORT RECEIVED UNDER THIS SECTION, FOR ANY PURPOSE CONSISTENT WITH THE SECRETARY'S LAWFUL DUTIES AS AUTHORIZED BY AN ACT OF THE MARYLAND GENERAL ASSEMBLY.

[(2)] (4) This subsection does not apply to a disclosure by the Secretary to another governmental agency performing its lawful duties as authorized by an act of the Maryland General Assembly or the United States Congress where the Secretary determines that:

(i) The agency to whom the information is disclosed will maintain the confidentiality of the disclosure; and

(ii) The disclosure is necessary to protect the public health or to prevent the spread of an infectious or contagious disease.

~~(5) NOTWITHSTANDING PARAGRAPHS (1) THROUGH (4) OF THIS SUBSECTION, DISCLOSURE OF INFORMATION OBTAINED IN ACCORDANCE WITH A REPORT RECEIVED UNDER THIS SECTION MAY BE MADE:~~

~~(I) TO A GOVERNMENTAL ENTITY FOR THE PURPOSE OF TAKING ENFORCEMENT ACTION AUTHORIZED BY STATUTE OR REGULATIONS OR TAKING ACTION TO PROTECT THE PUBLIC HEALTH OR SAFETY; OR~~

~~(II) TO A PERSON FOR THE PURPOSE OF INVESTIGATION OF A REPORT OBTAINED UNDER THIS SECTION IN ACCORDANCE WITH PROCEDURES ESTABLISHED BY THE SECRETARY IN REGULATIONS.~~

18-205.

(A) IN THIS SECTION[,] ~~THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

~~(1)~~ **“CLINICAL MATERIAL” MEANS:**

~~(H)~~ (1) **AN ORGANISM ISOLATED FROM A CLINICAL SPECIMEN;**

~~(H)~~ (2) **MATERIAL DERIVED OR PREPARED FROM A CLINICAL SPECIMEN IN WHICH EVIDENCE OF A COMMUNICABLE DISEASE HAS BEEN IDENTIFIED OR DETECTED; OR**

~~(H)~~ (3) **IF THE ORGANISM OR MATERIAL DESCRIBED IN SUBPARAGRAPHS (I) OR (II) OF THIS PARAGRAPH IS NOT AVAILABLE, MATERIAL FROM AN INDIVIDUAL THAT HAS ALREADY BEEN OBTAINED BY THE MEDICAL LABORATORY, IN THE FOLLOWING ORDER OF PREFERENCE:**

~~1.~~ (I) **A PATIENT SPECIMEN;**

~~2.~~ (II) ~~NUCLEIC ACID~~ MICROBIAL GENETIC MATERIAL; OR

~~3.~~ (III) **OTHER LABORATORY MATERIAL.**

~~(2)~~ ~~["invasive"] “INVASIVE disease” means a disease in which an organism is detected in a specimen taken from a normally sterile body site.~~

(b) (1) [The] **EXCEPT FOR THE DIRECTOR OF THE STATE’S PUBLIC HEALTH LABORATORY SYSTEM, THE** director of a medical laboratory located in this State shall submit a report to the health officer for the county where the laboratory is located [within 48 hours] after an examination of a human specimen shows evidence of any [disease or condition listed in subsection (c) of this section] **INFECTIOUS OR CONTAGIOUS DISEASE OR CONDITION THAT HAS BEEN DESIGNATED BY THE SECRETARY AS REPORTABLE.**

(2) THE DIRECTOR OF THE STATE’S PUBLIC HEALTH LABORATORY SYSTEM SHALL SUBMIT A REPORT TO THE SECRETARY IF AN EXAMINATION OF A HUMAN SPECIMEN SHOWS EVIDENCE OF ANY INFECTIOUS OR CONTAGIOUS DISEASE OR CONDITION THAT HAS BEEN DESIGNATED BY THE SECRETARY AS REPORTABLE.

~~(2)~~ **(3)** The director of a medical laboratory located outside of this State that performs a medical laboratory test on a human specimen acquired from a person in this State shall submit a report to the Secretary [within 48 hours] after an examination of that specimen shows evidence of any [disease or condition listed in

subsection (c) of this section] **INFECTIOUS OR CONTAGIOUS DISEASE OR CONDITION THAT HAS BEEN DESIGNATED BY THE SECRETARY AS REPORTABLE.**

(4) A DIRECTOR OF A MEDICAL LABORATORY SHALL SUBMIT CLINICAL MATERIAL TO THE SECRETARY AS DIRECTED BY THE SECRETARY.

[(c) The diseases or conditions reportable by a medical laboratory director under this section are:

- (1) Amoebiasis.
- (2) Anaplasmosis.
- (3) Anthrax.
- (4) Arbovirus infection (all types).
- (5) Babesiosis.
- (6) Bacteremia in newborns.
- (7) Botulism.
- (8) Brucellosis.
- (9) Campylobacter infection.
- (10) CD 4+ count.
- (11) Chlamydia infection.
- (12) Cholera.
- (13) Coccidioidomycosis.
- (14) Creutzfeldt–Jakob Disease.
- (15) Cryptosporidiosis.
- (16) Cyclosporiasis.
- (17) Dengue fever.
- (18) Diphtheria.
- (19) Ehrlichiosis.

- (20) Encephalitis, infectious.
- (21) E. Coli 0157:H7 infection.
- (22) Giardiasis.
- (23) Gonorrhea.
- (24) Haemophilus influenzae, invasive disease.
- (25) Hansen disease (leprosy).
- (26) Hantavirus infection.
- (27) Hepatitis, viral, types A, B, C, and other types.
- (28) Human immunodeficiency virus infection.
- (29) Isosporiasis.
- (30) Legionellosis.
- (31) Leptospirosis.
- (32) Listeriosis.
- (33) Lyme disease.
- (34) Malaria.
- (35) Measles.
- (36) Meningococcal invasive disease.
- (37) Meningitis, infectious.
- (38) Microsporidiosis.
- (39) Mumps.
- (40) Pertussis.
- (41) Pesticide related illness.
- (42) Plague.

- (43) Poliomyelitis.
- (44) Psittacosis.
- (45) Q fever.
- (46) Rabies.
- (47) Ricin toxin.
- (48) Rocky Mountain spotted fever.
- (49) Rubella and congenital rubella syndrome.
- (50) Salmonellosis (nontyphoid fever types).
- (51) Severe acute respiratory syndrome.
- (52) Shiga-like toxin production.
- (53) Shigellosis.
- (54) Smallpox and other orthopox viruses.
- (55) Staphylococcal enterotoxin.
- (56) Streptococcal invasive disease, group A.
- (57) Streptococcal invasive disease, group B.
- (58) Streptococcus pneumoniae, invasive disease.
- (59) Syphilis.
- (60) Trichinosis.
- (61) Tuberculosis.
- (62) Tularemia.
- (63) Typhoid fever.
- (64) Varicella (chickenpox), fatal cases only.
- (65) Vibriosis, noncholera.

- (66) Viral hemorrhagic fevers (all types).
- (67) Yellow fever.
- (68) Yersiniosis.]

[(d)] (C) (1) When more than 1 specimen is taken from a patient during 1 disease episode, the director of the medical laboratory need not report every test result of a specimen that shows evidence of the same disease in that patient if:

- (i) At least 1 positive test result is reported; and
- (ii) The health officer has approved the reporting of less than all test results.

(2) The director of the medical laboratory need not report vibriosis, noncholera, [under subsection (c)(65) of this section] if the disease is found in a specimen obtained from the patient's teeth, gingival tissues, or oral mucosa.

[(e)] (D) The report shall:

(1) CONTAIN THE INFORMATION AND BE IN A FORMAT SPECIFIED OR APPROVED BY THE SECRETARY; AND

(2) BE TRANSMITTED AS DIRECTED BY THE SECRETARY.

~~(1) Be [either in the form that the Department prescribes or on the form that the Department provides] **IN A FORMAT SPECIFIED OR APPROVED BY THE SECRETARY AND BE TRANSMITTED AS DIRECTED BY THE SECRETARY;** and~~

~~(2) State at a minimum:~~

~~(i) The date, type, and result of the test that shows evidence of a disease required to be reported;~~

~~(ii) The name, age, sex, and residence address of the patient from whom the specimen was taken; and~~

~~(iii) The name and address of the physician who requested the test.~~

[(f)] (E) This section does not relieve a person of the duty to report under § 18-201, § 18-201.1, § 18-202, or § 18-202.1 of this subtitle.

~~[(g)]~~ **(F)** (1) A health officer shall inform the Secretary of each laboratory examination report received under subsection (b)(1) of this section.

(2) The Secretary shall inform the health officer of the jurisdiction where the patient resides of a laboratory examination report received under this section from a medical laboratory located outside this State.

~~[(h)]~~ **(G)** The Secretary, a health officer, or an agent of the Secretary or health officer may discuss a laboratory report with the attending physician **OR ANOTHER HEALTH CARE PROVIDER CARING FOR A PATIENT**, but, if the physician **OR ANOTHER HEALTH CARE PROVIDER CARING FOR A PATIENT** is **NOT** reasonably available, may communicate with a patient [only with the consent of the attending physician] **DIRECTLY IN A MANNER PRESCRIBED BY THE SECRETARY**.

~~[(i)]~~ **(H)** (1) [Except as provided in paragraph (2) of this subsection, all laboratory] **ALL** reports required under this section are:

~~[(i)]~~ Confidential;

(ii) Not open to public inspection; and

(iii) Subject to subpoena or discovery in a criminal or civil proceeding only pursuant to a court order sealing the court record.

(2) Reports submitted under this section relating to human immunodeficiency virus and acquired immunodeficiency syndrome are:

(i) Confidential and subject to Title 4, Subtitle 1 of this article; and

(ii) Not medical records under Title 4, Subtitle 3 of this article, but are subject to the confidentiality requirements of Title 4, Subtitle 1 of this article.

(3) The reports and any proceedings, records, or files submitted under this section related to HIV/AIDS are not discoverable and are not admissible in evidence in any civil action.‡

~~**(I) CONFIDENTIAL AND SUBJECT TO TITLE 4, SUBTITLE 1 OF THIS ARTICLE; AND**~~

~~**(II) NOT MEDICAL RECORDS UNDER TITLE 4, SUBTITLE 3 OF THIS ARTICLE.**~~

~~**(2) EXCEPT AS PROVIDED UNDER PARAGRAPHS (3), (4), AND (5) OF THIS SECTION, THE REPORTS AND ANY PROCEEDINGS, RECORDS, OR FILES**~~

~~ASSEMBLED, GENERATED, OR COMPILED IN ACCORDANCE WITH A REPORT MADE UNDER THIS SECTION ARE NOT DISCOVERABLE AND ARE NOT ADMISSIBLE IN EVIDENCE IN ANY CIVIL OR CRIMINAL MATTER.~~

~~(3)~~ **(4)** THE SECRETARY MAY PREPARE AND DISSEMINATE GENERALLY NONINDIVIDUALLY IDENTIFIABLE INFORMATION ABOUT ONE OR MORE CASES OF A CONDITION OR A DISEASE BASED ON ANY REPORT MADE UNDER THIS SECTION, FOR ANY PURPOSE CONSISTENT WITH THE SECRETARY'S LAWFUL DUTIES AS AUTHORIZED BY AN ACT OF THE MARYLAND GENERAL ASSEMBLY.

~~(4)~~ **(5)** This subsection does not apply to a disclosure by the Secretary to another governmental agency performing its lawful duties as authorized by an act of the Maryland General Assembly or the United States Congress where the Secretary determines that:

(i) The agency to whom the information is disclosed will maintain the confidentiality of the disclosure; and

(ii) The disclosure is necessary to protect the public health or to prevent the spread of an infectious or contagious disease.

~~(5) NOTWITHSTANDING PARAGRAPHS (1) THROUGH (4) OF THIS SUBSECTION, DISCLOSURE OF INFORMATION OBTAINED IN ACCORDANCE WITH A REPORT RECEIVED UNDER THIS SECTION MAY BE MADE:~~

~~(I) TO A GOVERNMENTAL ENTITY FOR THE PURPOSE OF TAKING ENFORCEMENT ACTION AUTHORIZED BY STATUTE OR REGULATIONS OR TAKING ACTION TO PROTECT THE PUBLIC HEALTH OR SAFETY; OR~~

~~(II) TO A PERSON FOR THE PURPOSE OF INVESTIGATION OF A REPORT OBTAINED UNDER THIS SECTION IN ACCORDANCE WITH PROCEDURES ESTABLISHED BY THE SECRETARY IN REGULATIONS.~~

(6) THIS SUBSECTION DOES NOT APPLY TO OR RESTRICT THE USE OR PUBLICATION OF ANY STATISTICS, INFORMATION, OR OTHER MATERIAL THAT SUMMARIZES OR REFERS TO CONFIDENTIAL RECORDS IN THE AGGREGATE, WITHOUT DISCLOSING THE IDENTITY OF ANY INDIVIDUAL WHO IS THE SUBJECT OF THE CONFIDENTIAL RECORD.

[(j)](I) To assure compliance with this section, the Secretary, a health officer, or an agent of the Secretary or health officer may inspect pertinent laboratory records.

(J) THE SECRETARY SHALL ADOPT REGULATIONS THAT DESIGNATE THE DISEASES OR CONDITIONS THAT ARE REPORTABLE BY A DIRECTOR OF A MEDICAL LABORATORY UNDER THIS SECTION.

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

Approved by the Governor, April 24, 2008.