

HOUSE BILL 1098

K1, J1
HB 1231/07 – ECM

9lr2094

By: **Delegate Love**
Introduced and read first time: February 13, 2009
Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Workers' Compensation – Medical Records – Authorized Disclosures**

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 in connection with a
5 claim for workers' compensation benefits; providing that disclosure of certain
6 mental health records filed under the workers' compensation law is subject to
7 certain limitations; and generally relating to the authorized disclosure of
8 medical records for claims filed under the workers' compensation law.

9 BY repealing and reenacting, without amendments,
10 Article – Health – General
11 Section 4–301(g) and (k), 4–306(c), and 4–307(b) and (c)
12 Annotated Code of Maryland
13 (2005 Replacement Volume and 2008 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article – Health – General
16 Section 4–306 (b)(9) and (10)
17 Annotated Code of Maryland
18 (2005 Replacement Volume and 2008 Supplement)

19 BY adding to
20 Article – Health – General
21 Section 4–306(b)(11)
22 Annotated Code of Maryland
23 (2005 Replacement Volume and 2008 Supplement)

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

26 **Article – Health – General**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 4–301.

2 (g) (1) “Health care provider” means:

3 (i) A person who is licensed, certified, or otherwise authorized
4 under the Health Occupations Article or § 13–516 of the Education Article to provide
5 health care in the ordinary course of business or practice of a profession or in an
6 approved education or training program; or

7 (ii) A facility where health care is provided to patients or
8 recipients, including a facility as defined in § 10–101(e) of this article, a hospital as
9 defined in § 19–301 of this article, a related institution as defined in § 19–301 of this
10 article, a health maintenance organization as defined in § 19–701(g) of this article, an
11 outpatient clinic, and a medical laboratory.

12 (2) “Health care provider” includes the agents, employees, officers, and
13 directors of a facility and the agents and employees of a health care provider.

14 (k) “Person in interest” means:

15 (1) An adult on whom a health care provider maintains a medical
16 record;

17 (2) A person authorized to consent to health care for an adult
18 consistent with the authority granted;

19 (3) A duly appointed personal representative of a deceased person;

20 (4) (i) A minor, if the medical record concerns treatment to which
21 the minor has the right to consent and has consented under Title 20, Subtitle 1 of this
22 article; or

23 (ii) A parent, guardian, custodian, or a representative of the
24 minor designated by a court, in the discretion of the attending physician who provided
25 the treatment to the minor, as provided in § 20–102 or § 20–104 of this article;

26 (5) If paragraph (4) of this subsection does not apply to a minor:

27 (i) A parent of the minor, except if the parent’s authority to
28 consent to health care for the minor has been specifically limited by a court order or a
29 valid separation agreement entered into by the parents of the minor; or

30 (ii) A person authorized to consent to health care for the minor
31 consistent with the authority granted; or

32 (6) An attorney appointed in writing by a person listed in paragraph
33 (1), (2), (3), (4), or (5) of this subsection.

34 4–306.

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

3 (9) To a State or local child fatality review team established under
4 Title 5, Subtitle 7 of this article as necessary to carry out its official functions; [or]

5 (10) To a local domestic violence fatality review team established under
6 Title 4, Subtitle 7 of the Family Law Article as necessary to carry out its official
7 functions; **OR**

8 **(11) SUBJECT TO THE ADDITIONAL LIMITATIONS FOR A MEDICAL**
9 **RECORD DEVELOPED PRIMARILY IN CONNECTION WITH THE PROVISION OF**
10 **MENTAL HEALTH SERVICES IN § 4-307 OF THIS SUBTITLE, TO A PARTY SEEKING**
11 **THE DISCLOSURE OR PRODUCTION OF A MEDICAL RECORD FOR THE SOLE**
12 **PURPOSE OF INVESTIGATING A CLAIM FILED FOR A WORK-RELATED INJURY OR**
13 **OCCUPATIONAL DISEASE THAT IS THE SUBJECT OF A PROCEEDING**
14 **ESTABLISHED UNDER SUBTITLE 7 OF THE LABOR AND EMPLOYMENT ARTICLE,**
15 **ON RECEIPT OF:**

16 **(I) A SUBPOENA ISSUED BY THE WORKERS'**
17 **COMPENSATION COMMISSION; OR**

18 **(II) AN AUTHORIZATION FOR THE RELEASE OF MEDICAL**
19 **RECORDS FILED WITH THE COMMISSION.**

20 (c) When a disclosure is sought under this section:

21 (1) A written request for disclosure or written confirmation by the
22 health care provider of an oral request that justifies the need for disclosure shall be
23 inserted in the medical record of the patient or recipient; and

24 (2) Documentation of the disclosure shall be inserted in the medical
25 record of the patient or recipient.

26 4-307.

27 (b) The disclosure of a medical record developed in connection with the
28 provision of mental health services shall be governed by the provisions of this section
29 in addition to the other provisions of this subtitle.

30 (c) When a medical record developed in connection with the provision of
31 mental health services is disclosed without the authorization of a person in interest,
32 only the information in the record relevant to the purpose for which disclosure is
33 sought may be released.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2009.