

HOUSE BILL 1468

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By: **Chair, Health and Government Operations Committee (By Request – Departmental – Health and Mental Hygiene)**

Introduced and read first time: March 2, 2009

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Public Health Surveillance – Confidentiality**

3 FOR the purpose of expanding certain requirements for confidentiality relating to
4 certain reports on certain conditions or diseases by physicians, certain
5 institutions, and certain medical laboratories so as to require that all
6 information collected in connection with a report, the subject of the report, or
7 other individuals who might be affected by the condition or disease in the
8 report are subject to those requirements; making certain exceptions; and
9 generally relating to the confidentiality of certain information related to certain
10 conditions or diseases.

11 BY repealing and reenacting, with amendments,
12 Article – Health – General
13 Section 18–201, 18–202, and 18–205
14 Annotated Code of Maryland
15 (2005 Replacement Volume and 2008 Supplement)

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

18 **Article – Health – General**

19 18–201.

20 (a) A physician with reason to suspect that a patient under the physician's
21 care has a condition or an infectious or contagious disease, except human
22 immunodeficiency virus or acquired immunodeficiency syndrome, that endangers
23 public health and that has been designated by the Secretary as reportable shall
24 submit immediately a report to the health officer for the county where the physician
25 cares for that patient.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) The report shall:

2 (1) Contain the information and be in a format specified or approved
3 by the Secretary; and

4 (2) Be transmitted as directed by the Secretary.

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

6 (i) Confidential;

7 (ii) Not open to public inspection; and

8 (iii) Subject to subpoena or discovery in any criminal or civil
9 proceeding only pursuant to a court order sealing the court record.] **EXCEPT AS
10 PROVIDED IN PARAGRAPHS (2) THROUGH (5) OF THIS SUBSECTION, ALL
11 REPORTS AND ALL INFORMATION COLLECTED IN CONNECTION WITH A REPORT
12 FROM A HEALTH CARE PROVIDER, THE SUBJECT OF THE REPORT, OR OTHER
13 INDIVIDUALS WHO MIGHT BE AFFECTED BY THE CONDITION OR DISEASE IN THE
14 REPORT ARE:**

15 (I) **CONFIDENTIAL;**

16 (II) **NOT MEDICAL RECORDS UNDER TITLE 4, SUBTITLE 3
17 OF THIS ARTICLE;**

18 (III) **NOT OPEN TO PUBLIC INSPECTION; AND**

19 (IV) **NOT DISCOVERABLE OR ADMISSIBLE IN EVIDENCE IN
20 ANY CIVIL OR CRIMINAL MATTER EXCEPT IN ACCORDANCE WITH A COURT
21 ORDER SEALING THE COURT RECORD.**

22 (2) **THIS SUBSECTION DOES NOT APPLY TO REPORTS,
23 INFORMATION, AND RECORDS OTHERWISE AVAILABLE TO THE PUBLIC OR
24 REQUIRED TO BE PUBLICLY DISCLOSED.**

25 [(2)] (3) The Secretary may prepare and disseminate nonindividually
26 identifiable information about one or more cases of a condition or disease based on any
27 report received under this section, for any purpose consistent with the Secretary's
28 lawful duties as authorized by an act of the Maryland General Assembly.

29 [(3)] (4) This subsection does not apply to or restrict the use or
30 publication of any statistics, information, or other material that summarizes or refers
31 to confidential records in the aggregate, without disclosing the identity of any
32 individual who is the subject of the confidential record.

1 [(4)] (5) This subsection does not apply to a disclosure by the
2 Secretary to another governmental agency performing its lawful duties as authorized
3 by an act of the Maryland General Assembly or the United States Congress where the
4 Secretary determines that:

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

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

9 18–202.

10 (a) In this section, “institution” includes:

11 (1) A hospital; and

12 (2) A lodging facility.

13 (b) When the administrative head of an institution has reason to believe that
14 an individual on the premises of the institution has a condition or an infectious or
15 contagious disease, except human immunodeficiency virus or acquired
16 immunodeficiency syndrome, that has been designated by the Secretary as reportable,
17 the administrative head immediately shall submit a report to the health officer for the
18 county where the institution is located.

19 (c) The report shall:

20 (1) Contain the information and be in a format specified or approved
21 by the Secretary; and

22 (2) Be transmitted as directed by the Secretary.

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

24 (i) Confidential;

25 (ii) Not open to public inspection; and

26 (iii) Subject to subpoena or discovery in any criminal or civil
27 proceeding only pursuant to a court order sealing the court record.] **EXCEPT AS**
28 **PROVIDED IN PARAGRAPHS (2) THROUGH (5) OF THIS SUBSECTION, ALL**
29 **REPORTS AND ALL INFORMATION COLLECTED IN CONNECTION WITH A REPORT**
30 **FROM A HEALTH CARE PROVIDER, THE SUBJECT OF THE REPORT, OR OTHER**
31 **INDIVIDUALS WHO MIGHT BE AFFECTED BY THE CONDITION OR DISEASE IN THE**
32 **REPORT ARE:**

- 1 **(I) CONFIDENTIAL;**
- 2 **(II) NOT MEDICAL RECORDS UNDER TITLE 4, SUBTITLE 3**
3 **OF THIS ARTICLE;**
- 4 **(III) NOT OPEN TO PUBLIC INSPECTION; AND**
- 5 **(IV) NOT DISCOVERABLE OR ADMISSIBLE IN EVIDENCE IN**
6 **ANY CIVIL OR CRIMINAL MATTER EXCEPT IN ACCORDANCE WITH A COURT**
7 **ORDER SEALING THE COURT RECORD.**

8 **(2) THIS SUBSECTION DOES NOT APPLY TO REPORTS,**
9 **INFORMATION, AND RECORDS OTHERWISE AVAILABLE TO THE PUBLIC OR**
10 **REQUIRED TO BE PUBLICLY DISCLOSED.**

11 **[(2)] (3)** This subsection does not apply to or restrict the use or
12 publication of any statistics, information, or other material that summarizes or refers
13 to confidential records in the aggregate, without disclosing the identity of any
14 individual who is the subject of the confidential record.

15 **[(3)] (4)** The Secretary may prepare and disseminate nonindividually
16 identifiable information about one or more cases of a condition or a disease based on
17 any report received under this section, for any purpose consistent with the Secretary's
18 lawful duties as authorized by an act of the Maryland General Assembly.

19 **[(4)] (5)** This subsection does not apply to a disclosure by the
20 Secretary to another governmental agency performing its lawful duties as authorized
21 by an act of the Maryland General Assembly or the United States Congress where the
22 Secretary determines that:

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

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

27 18–205.

28 (a) In this section, “clinical material” means:

29 (1) An organism isolated from a clinical specimen;

30 (2) Material derived or prepared from a clinical specimen in which
31 evidence of a communicable disease has been identified or detected; or

1 (3) If the organism or material described in subparagraph (i) or (ii) of
2 this paragraph is not available, material from an individual that has already been
3 obtained by the medical laboratory, in the following order of preference:

4 (i) A patient specimen;

5 (ii) Microbial genetic material; or

6 (iii) Other laboratory material.

7 (b) (1) Except for the director of the State's public health laboratory
8 system, the director of a medical laboratory located in this State shall submit a report
9 to the health officer for the county where the laboratory is located after an
10 examination of a human specimen shows evidence of any infectious or contagious
11 disease or condition that has been designated by the Secretary as reportable.

12 (2) The director of the State's public health laboratory system shall
13 submit a report to the Secretary if an examination of a human specimen shows
14 evidence of any infectious or contagious disease or condition that has been designated
15 by the Secretary as reportable.

16 (3) The director of a medical laboratory located outside of this State
17 that performs a medical laboratory test on a human specimen acquired from a person
18 in this State shall submit a report to the Secretary after an examination of that
19 specimen shows evidence of any infectious or contagious disease or condition that has
20 been designated by the Secretary as reportable.

21 (4) A director of a medical laboratory shall submit clinical material to
22 the Secretary as directed by the Secretary.

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

26 (i) At least 1 positive test result is reported; and

27 (ii) The health officer has approved the reporting of less than all
28 test results.

29 (2) The director of the medical laboratory need not report vibriosis,
30 noncholera, if the disease is found in a specimen obtained from the patient's teeth,
31 gingival tissues, or oral mucosa.

32 (d) The report shall:

33 (1) Contain the information and be in a format specified or approved
34 by the Secretary; and

1 (2) Be transmitted as directed by the Secretary.

2 (e) This section does not relieve a person of the duty to report under §
3 18–201, § 18–201.1, § 18–202, or § 18–202.1 of this subtitle.

4 (f) (1) A health officer shall inform the Secretary of each laboratory
5 examination report received under subsection (b)(1) of this section.

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

9 (g) The Secretary, a health officer, or an agent of the Secretary or health
10 officer may discuss a laboratory report with the attending physician or another health
11 care provider caring for a patient, but, if the physician or another health care provider
12 caring for a patient is not reasonably available, may communicate with a patient
13 directly in a manner prescribed by the Secretary.

14 (h) (1) [All reports required under this section are:

15 (i) Confidential;

16 (ii) Not open to public inspection; and

17 (iii) Subject to subpoena or discovery in a criminal or civil
18 proceeding only pursuant to a court order sealing the court record.] **EXCEPT AS**
19 **PROVIDED IN PARAGRAPHS (2) THROUGH (5) OF THIS SUBSECTION, ALL**
20 **REPORTS AND ALL INFORMATION COLLECTED IN CONNECTION WITH A REPORT**
21 **FROM A HEALTH CARE PROVIDER, THE SUBJECT OF THE REPORT, OR OTHER**
22 **INDIVIDUALS WHO MIGHT BE AFFECTED BY THE CONDITION OR DISEASE IN THE**
23 **REPORT ARE:**

24 (I) **CONFIDENTIAL;**

25 (II) **NOT MEDICAL RECORDS UNDER TITLE 4, SUBTITLE 3**
26 **OF THIS ARTICLE;**

27 (III) **NOT OPEN TO PUBLIC INSPECTION; AND**

28 (IV) **NOT DISCOVERABLE OR ADMISSIBLE IN EVIDENCE IN**
29 **ANY CIVIL OR CRIMINAL MATTER EXCEPT IN ACCORDANCE WITH A COURT**
30 **ORDER SEALING THE COURT RECORD.**

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

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

3 (ii) Not medical records under Title 4, Subtitle 3 of this article,
4 but are subject to the confidentiality requirements of Title 4, Subtitle 1 of this article.]
5 **THIS SUBSECTION DOES NOT APPLY TO REPORTS, INFORMATION, AND RECORDS**
6 **OTHERWISE AVAILABLE TO THE PUBLIC OR REQUIRED TO BE PUBLICLY**
7 **DISCLOSED.**

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

11 (4)] (3) The Secretary may prepare and disseminate nonindividually
12 identifiable information about one or more cases of a condition or a disease based on
13 any report made under this section, for any purpose consistent with the Secretary's
14 lawful duties as authorized by an act of the Maryland General Assembly.

15 [(5)] (4) This subsection does not apply to a disclosure by the
16 Secretary to another governmental agency performing its lawful duties as authorized
17 by an act of the Maryland General Assembly or the United States Congress where the
18 Secretary determines that:

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

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

23 [(6)] (5) This subsection does not apply to or restrict the use or
24 publication of any statistics, information, or other material that summarizes or refers
25 to confidential records in the aggregate, without disclosing the identity of any
26 individual who is the subject of the confidential record.

27 (i) To assure compliance with this section, the Secretary, a health officer, or
28 an agent of the Secretary or health officer may inspect pertinent laboratory records.

29 (j) The Secretary shall adopt regulations that designate the diseases or
30 conditions that are reportable by a director of a medical laboratory under this section.

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