

CHAPTER 470

(House Bill 1468)

AN ACT concerning

Public Health Surveillance – Confidentiality

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

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 2008 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.

(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.] **EXCEPT AS PROVIDED IN PARAGRAPHS (2) THROUGH (5) OF THIS SUBSECTION, ALL REPORTS AND ALL INFORMATION COLLECTED IN CONNECTION WITH A REPORT FROM A HEALTH CARE PROVIDER, THE SUBJECT OF THE REPORT, OR OTHER INDIVIDUALS WHO MIGHT BE AFFECTED BY THE CONDITION OR DISEASE IN THE REPORT ARE:**

(I) CONFIDENTIAL;

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

(III) NOT OPEN TO PUBLIC INSPECTION; AND

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

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

[(2)] (3) The Secretary may prepare and disseminate 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)] (4) 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.

[(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.

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.

(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.] **EXCEPT AS PROVIDED IN PARAGRAPHS (2) THROUGH (5) OF THIS SUBSECTION, ALL REPORTS AND ALL INFORMATION COLLECTED IN CONNECTION WITH A REPORT FROM A HEALTH CARE PROVIDER, THE SUBJECT OF THE REPORT, OR OTHER INDIVIDUALS WHO MIGHT BE AFFECTED BY THE CONDITION OR DISEASE IN THE REPORT ARE:**

(I) CONFIDENTIAL;

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

(III) NOT OPEN TO PUBLIC INSPECTION; AND

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

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

[(2)] (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.

[(3)] (4) The Secretary may prepare and disseminate 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.

[(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.

18-205.

(a) In this section, "clinical material" means:

(1) An organism isolated from a clinical specimen;

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

(3) If the organism or material described in subparagraph (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:

- (i) A patient specimen;
- (ii) Microbial genetic material; or
- (iii) Other laboratory material.

(b) (1) 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 after 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) 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.

(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 after an examination of that specimen shows evidence of any 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) (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, if the disease is found in a specimen obtained from the patient's teeth, gingival tissues, or oral mucosa.

(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.

(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.

(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.

(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 directly in a manner prescribed by the Secretary.

(h) (1) [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.] **EXCEPT AS PROVIDED IN PARAGRAPHS (2) THROUGH (5) OF THIS SUBSECTION, ALL REPORTS AND ALL INFORMATION COLLECTED IN CONNECTION WITH A REPORT FROM A HEALTH CARE PROVIDER, THE SUBJECT OF THE REPORT, OR OTHER INDIVIDUALS WHO MIGHT BE AFFECTED BY THE CONDITION OR DISEASE IN THE REPORT ARE:**

(I) CONFIDENTIAL;

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

(III) NOT OPEN TO PUBLIC INSPECTION; AND

(IV) NOT DISCOVERABLE OR ADMISSIBLE IN EVIDENCE IN ANY CIVIL OR CRIMINAL MATTER EXCEPT IN ACCORDANCE WITH 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.] **THIS SUBSECTION DOES NOT APPLY TO REPORTS, INFORMATION, AND RECORDS OTHERWISE AVAILABLE TO THE PUBLIC OR REQUIRED TO BE PUBLICLY DISCLOSED.**

[(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.

(4) (3) The Secretary may prepare and disseminate 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.

[(5) (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.

[(6) (5) 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.

(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, 2009.

Approved by the Governor, May 7, 2009.