

**Department of Legislative Services**  
Maryland General Assembly  
2010 Session

**FISCAL AND POLICY NOTE**

House Bill 431 (Delegate Waldstreicher, *et al.*)  
Health and Government Operations

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**Medical Review Committees - Subpoenas - Medical Records for Mental Health Services**

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This bill requires a medical review committee with subpoena powers to notify a patient by certified mail, return receipt requested, that the committee is issuing a subpoena for the patient's medical records as a result of a complaint from a person other than the patient. A patient must be notified on the same day the subpoena is issued.

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**Fiscal Summary**

**State Effect:** The bill's requirements can be handled with existing Department of Health and Mental Hygiene budgeted resources.

**Local Effect:** Local health departments can handle the bill's requirements with existing budgeted resources.

**Small Business Effect:** Minimal.

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**Analysis**

**Current Law:** A medical review committee evaluates and seeks to improve the quality of health care provided by health care providers; evaluates the need for and the level of performance of health care provided by health care providers; evaluates the qualification, competence, and performance of health care providers; or evaluates and acts on matters that relate to the discipline of any health care provider. A medical review committee can be a State or federal entity, including a health occupations regulatory board, or a review board established by a local health department, a health care provider professional

association, a professional standard review organization, or other group permitted by law. There are 15 types of entities afforded medical review committee status.

Generally, a medical review committee's proceedings, records, and files are confidential and not discoverable or admissible. However, if a civil action is brought by a party to a medical review committee's proceedings who claims to be aggrieved by the committee's decision, the records and files are subject to discovery.

A health care provider has to disclose a medical record without the authorization of a person of interest in accordance with a subpoena for medical records on specific recipients to health professional licensing and disciplinary boards for the sole purpose of an investigation regarding licensure, certification, or discipline of a health professional or the improper practice of a health professional.

**Background:** While all boards have the ability to subpoena a patient's medical records for mental health services, the majority of boards rarely exercise this power. The State Board of Physicians advises that it subpoenas the patient medical records of approximately 4,000 providers annually. Historically, however, it has subpoenaed the patient medical records of approximately just 30 psychiatrists annually. In comparison, the State Board of Examiners of Psychologists subpoenas approximately two providers annually for patients' medical records. Furthermore, the State Board of Nursing estimates the board subpoenas medical records for mental health services for no more than 12 providers annually.

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### **Additional Information**

**Prior Introductions:** HB 1232 of 2009 would have only applied to the State Board of Physicians. The bill received an unfavorable report from the House Health and Government Operations Committee; however, its cross file, SB 734 passed in the Senate and received an unfavorable report from the same House committee. Likewise, SB 443 of 2008, as amended, passed the Senate and was heard by the House Health and Government Operations Committee, but no further action was taken on the bill. Its cross file, HB 876, was withdrawn after a hearing in the House Health and Government Operations Committee. Similar bills were also introduced in 2007.

**Cross File:** None.

**Information Source(s):** Department of Health and Mental Hygiene, Judiciary (Administrative Office of the Courts), Department of Legislative Services

**Fiscal Note History:** First Reader - February 22, 2010  
mlm/mcr

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