

SENATE BILL 960

J3, J2

11r3074
CF HB 600

By: **Senator Middleton**

Introduced and read first time: March 3, 2011

Assigned to: Rules

Re-referred to: Education, Health, and Environmental Affairs and Finance, March 7, 2011

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 24, 2011

CHAPTER _____

1 AN ACT concerning

2 **Health Care Providers – Investigations – Information Sharing Among State**
3 **Agencies**

4 FOR the purpose of adding to the list of entities to which the Health Services Cost
5 Review Commission may disclose certain physician information; altering the list
6 of entities that may be medical review committees charged by law to evaluate
7 certain matters relating to health care providers; requiring the Board of
8 Physicians to disclose information contained in a record to the Secretary of
9 Health and Mental Hygiene and certain agencies for a certain purpose;
10 requiring the Board, the Secretary, and the Commission to jointly adopt
11 regulations for the transfer of certain information in a record; providing that
12 certain provisions of this Act may not be construed to alter the authority of the
13 Secretary under certain provisions of law; making a certain technical change;
14 and generally relating to sharing information among State agencies for
15 purposes of investigating health care providers, health care quality, and
16 utilization of health care.

17 BY repealing and reenacting, with amendments,
18 Article – Health – General
19 Section 19–218
20 Annotated Code of Maryland
21 (2009 Replacement Volume and 2010 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



BY repealing and reenacting, with amendments,
Article – Health Occupations
Section 1–401 and 14–411(d)
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,
Article – Health Occupations
Section 14–411(a), (b), and (c)
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

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

Article – Health – General

19–218.

(a) The Commission shall require each facility to give the Commission
information that:

- (1) Concerns the total financial needs of the facility;
- (2) Concerns its current and expected resources to meet its total
financial needs;
- (3) Includes the effect of any proposal made, under Subtitle 1 of this
title, on comprehensive health planning; and
- (4) Includes physician information sufficient to identify practice
patterns of individual physicians across all facilities.

(b) The [names] **IDENTITIES** of individual physicians are confidential and
are not discoverable or admissible in evidence in a civil or criminal proceeding, and
may only be disclosed to the following:

- (1) The utilization review committee of a Maryland hospital;
- (2) The Medical and Chirurgical Faculty of the State of Maryland; [or]
- (3) The State Board of Physicians;
- (4) **THE OFFICE OF HEALTH CARE QUALITY IN THE
DEPARTMENT; OR**

(5) AN INVESTIGATORY BODY UNDER THE STATE OR FEDERAL GOVERNMENT.

Article – Health Occupations

1–401.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) “Alternative health care system” means a system of health care delivery other than a hospital or related institution.

(ii) “Alternative health care system” includes:

1. A health maintenance organization;
2. A preferred provider organization;
3. An independent practice association;
4. A community health center that is a nonprofit, freestanding ambulatory health care provider governed by a voluntary board of directors and that provides primary health care services to the medically indigent;
5. A freestanding ambulatory care facility as that term is defined in § 19–3B–01 of the Health – General Article; or
6. Any other health care delivery system that utilizes a medical review committee.

(3) “Medical review committee” means a committee or board that:

- (i) Is within one of the categories described in subsection (b) of this section; and
- (ii) Performs functions that include at least one of the functions listed in subsection (c) of this section.

(4) (i) “Provider of health care” means any person who is licensed by law to provide health care to individuals.

(ii) “Provider of health care” does not include any nursing institution that is conducted by and for those who rely on treatment by spiritual means through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination.

1 (5) “The Maryland Institute for Emergency Medical Services Systems”
2 means the State agency described in § 13–503 of the Education Article.

3 (6) “The Maryland Health Care Commission” means the State agency
4 described in § 19–103 of the Health – General Article.

5 (b) For purposes of this section, a medical review committee is:

6 (1) A regulatory board, ~~for~~ agency, ~~OR GROUP OF AGENCIES~~
7 established by State or federal law to license, certify, or discipline any provider of
8 health care;

9 (2) A committee of the Faculty or any of its component societies or a
10 committee of any other professional society or association composed of providers of
11 health care;

12 (3) A committee appointed by or established in THE DEPARTMENT
13 OR a local health department for review purposes;

14 (4) A committee appointed by or established in the Maryland Institute
15 for Emergency Medical Services Systems;

16 (5) A committee of the medical staff or other committee, including any
17 risk management, credentialing, or utilization review committee established in
18 accordance with § 19–319 of the Health – General Article, of a hospital, related
19 institution, or alternative health care system, if the governing board of the hospital,
20 related institution, or alternative health care system forms and approves the
21 committee or approves the written bylaws under which the committee operates;

22 (6) A committee or individual designated by the holder of a pharmacy
23 permit, as defined in § 12–101 of this article, that performs the functions listed in
24 subsection (c) of this section, as part of a pharmacy’s ongoing quality assurance
25 program;

26 (7) Any person, including a professional standard review organization,
27 who contracts with an agency of this State or of the federal government to perform any
28 of the functions listed in subsection (c) of this section;

29 (8) Any person who contracts with a provider of health care to perform
30 any of those functions listed in subsection (c) of this section that are limited to the
31 review of services provided by the provider of health care;

32 (9) An organization, established by the Maryland Hospital
33 Association, Inc. and the Faculty, that contracts with a hospital, related institution, or
34 alternative delivery system to:

1 (i) Assist in performing the functions listed in subsection (c) of
2 this section; or

3 (ii) Assist a hospital in meeting the requirements of § 19–319(e)
4 of the Health – General Article;

5 (10) A committee appointed by or established in an accredited health
6 occupations school;

7 (11) An organization described under § 14–501 of this article that
8 contracts with a hospital, related institution, or health maintenance organization to:

9 (i) Assist in performing the functions listed in subsection (c) of
10 this section; or

11 (ii) Assist a health maintenance organization in meeting the
12 requirements of Title 19, Subtitle 7 of the Health – General Article, the National
13 Committee for Quality Assurance (NCQA), or any other applicable credentialing law
14 or regulation;

15 (12) An accrediting organization as defined in § 14–501 of this article;

16 (13) A Mortality and Quality Review Committee established under
17 § 5–801 or a Morbidity, Mortality, and Quality Review Committee established under
18 § 18–107 of the Health – General Article;

19 (14) A center designated by the Maryland Health Care Commission as
20 the Maryland Patient Safety Center that performs the functions listed in subsection
21 (c)(1) of this section; or

22 (15) The Maryland Health Care Commission or its staff, when
23 performing the functions listed in subsection (c) of this section, provided that the data
24 or medical information under review is furnished to the Maryland Health Care
25 Commission by another medical review committee.

26 (c) For purposes of this section, a medical review committee:

27 (1) Evaluates and seeks to improve the quality of health care provided
28 by providers of health care;

29 (2) Evaluates the need for and the level of performance of health care
30 provided by providers of health care;

31 (3) Evaluates the qualifications, competence, and performance of
32 providers of health care; or

1 (4) Evaluates and acts on matters that relate to the discipline of any
2 provider of health care.

3 (d) (1) Except as otherwise provided in this section, the proceedings,
4 records, and files of a medical review committee are not discoverable and are not
5 admissible in evidence in any civil action.

6 (2) The proceedings, records, and files of a medical review committee
7 are confidential and are not discoverable and are not admissible in evidence in any
8 civil action arising out of matters that are being reviewed and evaluated by the
9 medical review committee if requested by the following:

10 (i) The Department of Health and Mental Hygiene to ensure
11 compliance with the provisions of § 19–319 of the Health – General Article;

12 (ii) A health maintenance organization to ensure compliance
13 with the provisions of Title 19, Subtitle 7 of the Health – General Article and
14 applicable regulations;

15 (iii) A health maintenance organization to ensure compliance
16 with the National Committee for Quality Assurance (NCQA) credentialing
17 requirements; or

18 (iv) An accrediting organization to ensure compliance with
19 accreditation requirements or the procedures and policies of the accrediting
20 organization.

21 (3) If the proceedings, records, and files of a medical review committee
22 are requested by any person from any of the entities in paragraph (2) of this
23 subsection:

24 (i) The person shall give the medical review committee notice
25 by certified mail of the nature of the request and the medical review committee shall
26 be granted a protective order preventing the release of its proceedings, records, and
27 files; and

28 (ii) The entities listed in paragraph (2) of this subsection may
29 not release any of the proceedings, records, and files of the medical review committee.

30 (e) Subsection (d)(1) of this section does not apply to:

31 (1) A civil action brought by a party to the proceedings of the medical
32 review committee who claims to be aggrieved by the decision of the medical review
33 committee; or

(2) Any record or document that is considered by the medical review committee and that otherwise would be subject to discovery and introduction into evidence in a civil trial.

(f) (1) A person shall have the immunity from liability described under § 5–637 of the Courts and Judicial Proceedings Article for any action as a member of the medical review committee or for giving information to, participating in, or contributing to the function of the medical review committee.

(2) A contribution to the function of a medical review committee includes any statement by any person, regardless of whether it is a direct communication with the medical review committee, that is made within the context of the person's employment or is made to a person with a professional interest in the functions of a medical review committee and is intended to lead to redress of a matter within the scope of a medical review committee's functions.

(g) Notwithstanding this section, §§ 14–410 and 14–412 of this article apply to:

(1) The Board of Physicians; and

(2) Any other entity, to the extent that it is acting in an investigatory capacity for the Board of Physicians.

14–411.

(a) In this section, “record” means the proceedings, records, or files of the Board.

(b) Except as otherwise expressly provided in this section and § 14–411.1 of this subtitle, the Board or any of its investigatory bodies may not disclose any information contained in a record.

(c) Nothing in this section shall be construed to prevent or limit the disclosure of:

(1) General licensure, certification, or registration information maintained by the Board, if the request for release complies with the criteria of § 10–617(h) of the State Government Article;

(2) Profile information collected and disseminated under § 14–411.1 of this subtitle; or

(3) Personal and other identifying information of a licensee, as required by the National Practitioner Data Bank for participation in the proactive disclosure service.

(d) The Board shall disclose any information contained in a record to:

(1) [a] A committee of a hospital, health maintenance organization, or related institution if:

[(1)] (I) The committee of a medical hospital staff concerned with physician discipline or other committee of a hospital, health maintenance organization, or related institution requests the information in writing;

[(2)] (II) The Board has issued an order as to a licensed physician on whom the information is requested; and

[(3)] (III) The Board determines that the information requested is necessary for an investigation or action of the committee as to a medical privilege of a licensed physician; OR

(2) THE SECRETARY, THE OFFICE OF HEALTH CARE QUALITY IN THE DEPARTMENT, OR THE HEALTH SERVICES COST REVIEW COMMISSION FOR THE PURPOSE OF INVESTIGATING QUALITY OR UTILIZATION OF CARE IN ANY ENTITY REGULATED BY THE OFFICE OF HEALTH CARE QUALITY OR THE HEALTH SERVICES COST REVIEW COMMISSION.

(E) ON OR BEFORE JANUARY 1, 2012, THE BOARD, THE SECRETARY, AND THE HEALTH SERVICES COST REVIEW COMMISSION JOINTLY SHALL ADOPT REGULATIONS FOR THE EFFICIENT AND SECURE TRANSFER, UNDER SUBSECTION (D)(2) OF THIS SECTION, OF ANY INFORMATION IN A RECORD THAT MAY INDICATE THAT AN INVESTIGATION OF AN ENTITY REGULATED BY THE OFFICE OF HEALTH CARE QUALITY OR THE HEALTH SERVICES COST REVIEW COMMISSION MAY BE APPROPRIATE.

(F) SUBSECTION (D)(2) OF THIS SECTION MAY NOT BE CONSTRUED TO ALTER THE AUTHORITY OF THE SECRETARY UNDER § 1-203(A) OF THIS ARTICLE OR § 2-106(C) OF THE HEALTH – GENERAL ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2011.