

SENATE BILL 376

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CF 2lr2043

By: **Senator Conway**

Introduced and read first time: January 31, 2012

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Medical Records – Authorization to Disclose – Person in Interest**

3 FOR the purpose of altering the definition of “person in interest”, as it relates to the
4 disclosure of confidential medical records, to include the spouse, parent, or child
5 of a deceased person under certain circumstances; requiring a certain person in
6 interest to include a certain affidavit with a certain authorization for the
7 disclosure of certain medical records; and generally relating to the authorization
8 to disclose medical records to a person in interest.

9 BY repealing and reenacting, with amendments,
10 Article – Health – General
11 Section 4–301(l) and 4–303
12 Annotated Code of Maryland
13 (2009 Replacement Volume and 2011 Supplement)

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

16 **Article – Health – General**

17 4–301.

18 (l) “Person in interest” means:

19 (1) An adult on whom a health care provider maintains a medical
20 record;

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (3) (I) A duly appointed personal representative of a deceased
2 person; OR

3 (II) A SPOUSE, PARENT, OR CHILD OF A DECEASED PERSON,
4 IF THE SPOUSE, PARENT, OR CHILD COMPLIES WITH THE AFFIDAVIT
5 REQUIREMENT PROVIDED IN § 4-303(C) OF THIS SUBTITLE;

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

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

12 (5) If item (4) of this subsection does not apply to a minor:

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

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

18 (6) An attorney appointed in writing by a person listed in item (1), (2),
19 (3), (4), or (5) of this subsection.

20 4-303.

21 (a) A health care provider shall disclose a medical record on the
22 authorization of a person in interest in accordance with this section.

23 (b) Except as otherwise provided in subsections [(c)] (D) and [(d)] (E) of this
24 section, an authorization shall:

25 (1) Be in writing, dated, and signed by the person in interest AND, IF
26 REQUIRED UNDER SUBSECTION (C) OF THIS SECTION, ACCOMPANIED BY AN
27 AFFIDAVIT;

28 (2) State the name of the health care provider;

29 (3) Identify to whom the information is to be disclosed;

30 (4) State the period of time that the authorization is valid, which may
31 not exceed 1 year, except:

1 (i) In cases of criminal justice referrals, in which case the
2 authorization shall be valid until 30 days following final disposition; or

3 (ii) In cases where the patient on whom the medical record is
4 kept is a resident of a nursing home, in which case the authorization shall be valid
5 until revoked, or for any time period specified in the authorization; and

6 (5) Apply only to a medical record developed by the health care
7 provider unless in writing:

8 (i) The authorization specifies disclosure of a medical record
9 that the health care provider has received from another provider; and

10 (ii) The other provider has not prohibited redisclosure.

11 **(C) IF A PERSON IN INTEREST IS THE SPOUSE, PARENT, OR CHILD OF A**
12 **DECEASED PERSON, THE AUTHORIZATION SHALL BE ACCOMPANIED BY AN**
13 **AFFIDAVIT IN WHICH THE AFFIANT DECLARES AND AFFIRMS UNDER THE**
14 **PENALTIES OF PERJURY THAT:**

15 **(1) THE AFFIANT IS AN ADULT AND COMPETENT TO BE A**
16 **WITNESS;**

17 **(2) THE AFFIANT IS THE SPOUSE, PARENT, OR CHILD OF THE**
18 **DECEASED PERSON; AND**

19 **(3) THE AUTHORIZATION AND AFFIDAVIT HAVE NOT BEEN**
20 **EXECUTED FOR ANY UNLAWFUL PURPOSE.**

21 **[(c)] (D)** A health care provider shall disclose a medical record on receipt of
22 a preauthorized form that is part of an application for insurance.

23 **[(d)] (E)** A health care provider shall disclose a medical record on receipt of
24 an authorization for the release of relevant medical information that is included with
25 the claim application form filed with the Workers' Compensation Commission in
26 accordance with § 9-709(a), § 9-710(b), or § 9-711(a) of the Labor and Employment
27 Article.

28 **[(e)] (F) (1)** Except in cases of criminal justice referrals, a person in
29 interest may revoke an authorization in writing.

30 **(2)** A revocation of an authorization becomes effective on the date of
31 receipt by the health care provider.

32 **(3)** A disclosure made before the effective date of a revocation is not
33 affected by the revocation.

1 **[(f)] (G)** A copy of the following shall be entered in the medical record of a
2 patient or recipient:

- 3 (1) A written authorization;
- 4 (2) Any action taken in response to an authorization; and
- 5 (3) Any revocation of an authorization.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2012.