

# SENATE BILL 745

J1, J2, D3

7lr1767

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By: **Senator Zirkin**

Introduced and read first time: February 3, 2017

Assigned to: Finance

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Committee Report: Favorable

Senate action: Adopted

Read second time: March 21, 2017

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Disclosure of Medical Records – Compulsory Process – Timeline**

3 FOR the purpose of requiring a health care provider to disclose a certain medical record in  
4 accordance with compulsory process no later than a certain number of days after  
5 receiving certain documentation; and generally relating to the disclosure of medical  
6 records by health care providers.

7 BY repealing and reenacting, without amendments,  
8 Article – Health – General  
9 Section 4–306(a) and (b)(6)  
10 Annotated Code of Maryland  
11 (2015 Replacement Volume and 2016 Supplement)

12 BY adding to  
13 Article – Health – General  
14 Section 4–306(d)  
15 Annotated Code of Maryland  
16 (2015 Replacement Volume and 2016 Supplement)

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

19 **Article – Health – General**

20 4–306.

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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.



1 (a) In this section, “compulsory process” includes a subpoena, summons, warrant,  
2 or court order that appears on its face to have been issued on lawful authority.

3 (b) A health care provider shall disclose a medical record without the  
4 authorization of a person in interest:

5 (6) Subject to the additional limitations for a medical record developed  
6 primarily in connection with the provision of mental health services in § 4–307 of this  
7 subtitle and except as otherwise provided in items (2), (7), and (8) of this subsection, in  
8 accordance with compulsory process, if the health care provider receives:

9 (i) 1. A written assurance from the party or the attorney  
10 representing the party seeking the medical records that:

11 A. In a Child in Need of Assistance proceeding pursuant to  
12 Title 3, Subtitle 8 of the Courts and Judicial Proceedings Article, a person in interest has  
13 not objected to the disclosure of the designated medical records and 15 days have elapsed  
14 since the notice was sent;

15 B. In all other proceedings, a person in interest has not  
16 objected to the disclosure of the designated medical records within 30 days after the notice  
17 was sent; or

18 C. The objections of a person in interest have been resolved  
19 and the request for disclosure is in accordance with the resolution;

20 2. Proof that service of the subpoena, summons, warrant, or  
21 court order has been waived by the court for good cause; or

22 3. A copy of an order entered by a court expressly authorizing  
23 disclosure of the designated medical records; and

24 (ii) For disclosures made under item (i)1A of this paragraph, copies  
25 of the following items that were mailed by certified mail to the person in interest by the  
26 person requesting the disclosure at least 15 days before the records are to be disclosed:

27 1. The subpoena, summons, warrant, or court order seeking  
28 the disclosure or production of the records;

29 2. This section; and

30 3. A notice in the following form or a substantially similar  
31 form:

32 \_\_\_\_\_  
33 Plaintiffs

In the  
\_\_\_\_\_

v.

For

Defendants

Case No.:

NOTICE TO (Patient Name)
IN COMPLIANCE WITH § 4-306 OF THE HEALTH – GENERAL ARTICLE,
ANNOTATED CODE OF MARYLAND

TAKE NOTE that medical records regarding (Patient Name), have been
subpoenaed from the (Name and address of Health Care Provider) pursuant to the
attached subpoena and § 4-306 of the Health – General Article, Annotated Code of
Maryland. This subpoena \_\_\_\_ does \_\_\_\_ does not (mark one) seek production of mental
health records.

Please examine these papers carefully. IF YOU HAVE ANY OBJECTION TO
THE PRODUCTION OF THESE DOCUMENTS, YOU MUST FILE A MOTION FOR
A PROTECTIVE ORDER OR A MOTION TO QUASH THE SUBPOENA ISSUED FOR
THESE DOCUMENTS UNDER MARYLAND RULES 2-403 AND 2-510 NO LATER
THAN FIFTEEN (15) DAYS FROM THE DATE THIS NOTICE IS MAILED. For
example, a protective order may be granted if the records are not relevant to the issues
in this case, the request unduly invades your privacy, or causes you specific harm.

Also attached to this form is a copy of the subpoena duces tecum issued for these
records.

If you believe you need further legal advice about this matter, you should consult
your attorney.

Attorney
(Firm Name
Attorney address
Attorney phone number)

Attorneys for (Name of
Party Represented)

Certificate of Service

I hereby certify that a copy of the foregoing notice was mailed, first-class postage
prepaid, this \_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_ to

Patient

Each Counsel in Case

Attorney

(iii) For disclosures made under item (i)1B of this paragraph, copies of the following items that were mailed by certified mail and by mail sent first-class postage prepaid to the person in interest and, if applicable, by mail sent first-class postage prepaid to the court and parties in a criminal or juvenile delinquency case by the person requesting the disclosure at least 30 days before the records are to be disclosed:

- 1. The subpoena, summons, warrant, or court order seeking the disclosure or production of the records;
- 2. This section; and
- 3. A notice in the following form or a substantially similar form:

	In the
Plaintiffs	
v.	For
Defendants	Case No.: _____

NOTICE TO (Patient Name)  
 IN COMPLIANCE WITH § 4-306 OF THE HEALTH – GENERAL ARTICLE,  
 ANNOTATED CODE OF MARYLAND

TAKE NOTE that medical records regarding (Patient Name), have been subpoenaed from the (Name and address of Health Care Provider) pursuant to the attached subpoena and § 4-306 of the Health – General Article, Annotated Code of Maryland. This subpoena \_\_\_\_ does \_\_\_\_ does not (mark one) seek production of mental health records.

Please examine these papers carefully. IF YOU HAVE ANY OBJECTION TO THE PRODUCTION OF THESE DOCUMENTS, YOU MUST FILE A MOTION FOR A PROTECTIVE ORDER OR A MOTION TO QUASH THE SUBPOENA ISSUED FOR THESE DOCUMENTS UNDER MARYLAND RULES 2-403, 2-510, or 4-266 NO LATER THAN THIRTY (30) DAYS FROM THE DATE THIS NOTICE IS MAILED. For example, a protective order may be granted if the records are not relevant to the issues in this case, the request unduly invades your privacy, or causes you specific harm.

Also attached to this form is a copy of the subpoena duces tecum issued for these records.

If you believe you need further legal advice about this matter, you should consult

1 your attorney.

2  
3  
4  
5  
6  
7  
8

\_\_\_\_\_  
Attorney  
(Firm Name  
Attorney address  
Attorney phone number)  
  
Attorneys for (Name of  
Party Represented)

9 Certificate of Service

10 I hereby certify that a copy of the foregoing notice was mailed, first-class postage  
11 prepaid, this \_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_ to

12 \_\_\_\_\_  
13 Patient  
14 \_\_\_\_\_  
15 Each Counsel in Case  
16 \_\_\_\_\_  
17 Attorney

18 **(D) A HEALTH CARE PROVIDER SHALL DISCLOSE A MEDICAL RECORD IN**  
19 **ACCORDANCE WITH COMPULSORY PROCESS NO LATER THAN 30 DAYS AFTER**  
20 **RECEIVING THE DOCUMENTATION REQUIRED UNDER SUBSECTION (B)(6) OF THIS**  
21 **SECTION.**

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
23 October 1, 2017.

Approved:

\_\_\_\_\_  
Governor.

\_\_\_\_\_  
President of the Senate.

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Speaker of the House of Delegates.