

Article - Health - General

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§4–301.

- (a) In this subtitle the following words have the meanings indicated.
- (b) “Common ownership” means ownership of a health care entity:
 - (1) By two or more health care providers;
 - (2) By two or more health care providers employed by a mutual employer for a wage, salary, fee, or payment to perform work for the employer;
 - (3) By health care organizations operating as an organized health care arrangement, as defined in 45 C.F.R. § 160.103;
 - (4) By a health care entity or health care entities that possess an ownership or equity interest of 5% or more in another health care entity; or
 - (5) By affiliated providers operating under the same trade name.
- (c) “Directory information” means information concerning the presence and general health condition of a patient who has been admitted to a health care facility or who is currently receiving emergency health care in a health care facility.
- (d) “Disclose” or “disclosure” means the transmission or communication of information in a medical record, including an acknowledgment that a medical record on a particular patient or recipient exists.
- (e) “Emergency” means a situation when, in the professional opinion of the health care provider, a clear and significant risk of death or imminent serious injury or harm to a patient or recipient exists.
- (f) “General health condition” means the health status of a patient described in terms of “critical”, “poor”, “fair”, “good”, “excellent”, or terms denoting similar conditions.
- (g) “Health care” means any care, treatment, or procedure by a health care provider:
 - (1) To diagnose, evaluate, rehabilitate, manage, treat, or maintain the physical or mental condition of a patient or recipient; or

(2) That affects the structure or any function of the human body.

(h) (1) “Health care provider” means:

(i) A person who is licensed, certified, or otherwise authorized under the Health Occupations Article or § 13–516 of the Education Article to provide health care in the ordinary course of business or practice of a profession or in an approved education or training program; or

(ii) A facility where health care is provided to patients or recipients, including a facility as defined in § 10–101(g) of this article, a hospital as defined in § 19–301 of this article, a related institution as defined in § 19–301 of this article, a health maintenance organization as defined in § 19–701(g) of this article, an outpatient clinic, a medical laboratory, a comprehensive crisis response center, a crisis stabilization center, and a crisis treatment center established under § 7.5–207 of this article.

(2) “Health care provider” includes the agents, employees, officers, and directors of a facility and the agents and employees of a health care provider.

(i) (1) “Health information exchange” means:

(i) An individual or entity that determines, controls, or has the discretion to administer any requirement, policy, or agreement that allows, enables, or requires the use of any technology or services for access, exchange, or use of electronic protected health care information:

1. Among more than two unaffiliated individuals or entities that are enabled to exchange electronic protected health information with each other; and

2. That is for a treatment, payment, or health care operations purpose, as those terms are defined in 45 C.F.R. § 164.501, regardless of whether the individuals or entities are subject to the requirements of 45 C.F.R. parts 160 and 164; or

(ii) A health information technology developer of certified health information technology that develops or offers health information technology, as that term is defined in 42 U.S.C. 300jj(5), and has one or more Health Information Technology Modules certified under a program for the voluntary certification of health information technology that is kept or recognized by the National Coordinator in accordance with 42 U.S.C. 300jj–11(c)(5).

(2) “Health information exchange” does not include:

(i) An entity composed of health care providers under common ownership if the organizational and technical processes the entity provides or governs are for health care treatment, payment, or health care operations purposes, as those terms are defined in 45 C.F.R. § 164.501;

(ii) A carrier, as defined in § 15–1301 of the Insurance Article if the organizational and technical processes the carrier provides or governs are for health care treatment, payment, or health care operations purposes, as those terms are defined in 45 C.F.R. § 164.501;

(iii) An administrator, as defined in § 8–301 of the Insurance Article, if the organizational and technical processes the administrator provides or governs are for health care treatment, payment, or health care operations purposes, as those terms are defined in 45 C.F.R. § 164.501;

(iv) A health care provider, as defined in subsection (h) of this section, if the organizational and technical processes the health care provider provides or governs are for health care treatment, payment, or health care operations purposes, as those terms are defined in 45 C.F.R. § 164.501;

(v) A carrier’s business associate, as defined in 45 C.F.R. § 160.103, if the organizational and technical processes provided or governed by the business associate are transactions, as defined in 45 C.F.R. § 160.103; or

(vi) A carrier exchanging information as required by 45 C.F.R. § 156.221.

(j) “Legally protected health care” means all sensitive health services, medications, and supplies related to:

(1) The provision of abortion care; and

(2) Reproductive health and other sensitive health services as determined by the Secretary based on the recommendations of the Protected Health Care Commission established under § 4–310 of this subtitle.

(k) (1) “Medical record” means any oral, written, or other transmission in any form or medium of information that:

(i) Is entered in the record of a patient or recipient;

(ii) Identifies or can readily be associated with the identity of a patient or recipient; and

(iii) Relates to the health care of the patient or recipient.

(2) “Medical record” includes any:

(i) Documentation of disclosures of a medical record to any person who is not an employee, agent, or consultant of the health care provider;

(ii) File or record maintained under § 12–403(c)(13) of the Health Occupations Article by a pharmacy of a prescription order for drugs, medicines, or devices that identifies or may be readily associated with the identity of a patient;

(iii) Documentation of an examination of a patient regardless of who:

1. Requested the examination; or

2. Is making payment for the examination; and

(iv) File or record received from another health care provider that:

1. Relates to the health care of a patient or recipient received from that health care provider; and

2. Identifies or can readily be associated with the identity of the patient or recipient.

(l) (1) “Mental health services” means health care rendered to a recipient primarily in connection with the diagnosis, evaluation, treatment, case management, or rehabilitation of any mental disorder.

(2) For acute general hospital services, mental health services are considered to be the primarily rendered service only if service is provided pursuant to Title 10, Subtitle 6 of this article or Title 3 of the Criminal Procedure Article.

(m) “Patient” means a person who receives health care and on whom a medical record is maintained.

(n) “Person in interest” means:

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

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

(3) A duly appointed personal representative of a deceased person;

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

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

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

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

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

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

(o) “Primary provider of mental health services” means the designated mental health services provider who:

(1) Has primary responsibility for the development of the mental health treatment plan for the recipient; and

(2) Is actively involved in providing that treatment.

(p) “Protected health information” means all individually identifiable health information held or transmitted by a covered entity or its business associate protected under the U.S. Department of Health and Human Services Privacy Rule.

(q) “Recipient” means a person who has applied for, for whom an application has been submitted, or who has received mental health services.

(r) “Sensitive health services” includes:

- (1) Reproductive health services other than abortion care; and
- (2) Gender-affirming care.

(s) “State-designated health information exchange” means the health information exchange designated by the Maryland Health Care Commission and the Health Services Cost Review Commission under § 19-143 of this article.

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