

Article - Health - General

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§4–306.

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

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

(1) To a unit of State or local government, or to a member of a multidisciplinary team assisting the unit, for purposes of investigation or treatment in a case of suspected abuse or neglect of a child or an adult, subject to the following conditions:

(i) The health care provider shall disclose only the medical record of a person who is being assessed in an investigation or to whom services are being provided in accordance with Title 5, Subtitle 7 or Title 14, Subtitle 3 of the Family Law Article;

(ii) The health care provider shall disclose only the information in the medical record that will, in the professional judgment of the provider, contribute to the:

1. Assessment of risk;
2. Development of a service plan;
3. Implementation of a safety plan; or
4. Investigation of the suspected case of abuse or neglect; and

(iii) The medical record may be redisclosed as provided in §§ 1–201, 1–202, 1–204, and 1–205 of the Human Services Article;

(2) Subject to the additional limitations for a medical record developed primarily in connection with the provision of mental health services in § 4–307 of this subtitle, to health professional licensing and disciplinary boards, in accordance with a subpoena for medical records for the sole purpose of an investigation regarding:

(i) Licensure, certification, or discipline of a health professional; or

(ii) The improper practice of a health profession;

(3) To a health care provider or the provider's insurer or legal counsel, all information in a medical record relating to a patient or recipient's health, health care, or treatment which forms the basis for the issues of a claim in a civil action initiated by the patient, recipient, or person in interest;

(4) Notwithstanding any privilege in law, as needed, to a medical review committee as defined in § 1-401 of the Health Occupations Article or a dental review committee as defined in § 4-501 of the Health Occupations Article;

(5) To another health care provider as provided in § 10-807 or § 19-308.2 of this article;

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

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

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

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

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

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

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

(ii) For disclosures made under item (i)1A of this item, copies of the following items that were mailed by certified mail to the person in interest by the person requesting the disclosure at least 15 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:

| | | |
|---------------------|--|-----------------|
| _____ 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 item, 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:

Plaintiffs

v. For

In the

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 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

(7) Subject to the additional limitations for a medical record developed primarily in connection with the provision of mental health services in § 4–307 of this subtitle, and the limitations on patient overdose information under § 13–3602(e) of this article, to grand juries, prosecution agencies, law enforcement agencies or their agents or employees to further an investigation or prosecution, pursuant to a subpoena, warrant, or court order for the sole purposes of investigating and prosecuting criminal activity, provided that the prosecution agencies and law enforcement agencies have written procedures to protect the confidentiality of the records;

(8) To the Maryland Insurance Administration when conducting an investigation or examination pursuant to Title 2, Subtitle 2 of the Insurance Article, provided that the Insurance Administration has written procedures to maintain the confidentiality of the records;

(9) To a State or local child fatality review team established under Title 5, Subtitle 7 of this article as necessary to carry out its official functions;

(10) To a local domestic violence fatality review team established under Title 4, Subtitle 7 of the Family Law Article as necessary to carry out its official functions;

(11) To a local drug overdose fatality review team established under Title 5, Subtitle 9 of this article as necessary to carry out its official functions, subject to:

(i) The additional limitations under § 4–307 of this subtitle for disclosure of a medical record developed primarily in connection with the provision of mental health services; and

(ii) Any additional limitations for disclosure or redisclosure of a medical record developed in connection with the provision of substance abuse treatment services under State law or 42 U.S.C. § 290dd–2 and 42 C.F.R. Part 2; or

(12) To a guardian ad litem appointed by a court to protect the best interests of a minor or a disabled or elderly individual who is a victim of a crime or a delinquent act, for the sole purpose and use of the guardian ad litem in carrying out the guardian ad litem's official function to protect the best interests of the minor or the disabled or elderly individual in a criminal or juvenile delinquency court proceeding as permitted under 42 C.F.R. § 164.512(e).

(c) (1) Subject to paragraphs (2) through (4) of this subsection, a health care provider shall disclose medical and legal records without the authorization of an individual to a public defender who states in writing that the Office of the Public Defender represents the individual in:

(i) An involuntary admission proceeding under Title 10, Subtitle 6 of this article;

(ii) A release proceeding under Title 10, Subtitle 8 of this article; or

(iii) A commitment or release proceeding under Title 3 of the Criminal Procedure Article.

(2) Legal records required to be disclosed under paragraph (1) of this subsection include:

(i) An emergency petition;

(ii) An application for involuntary admission; and

(iii) A certification for involuntary admission.

(3) The records disclosed under paragraph (1) of this subsection shall be limited to those records needed by the public defender to represent the individual in the proceedings listed in paragraph (1) of this subsection.

(4) Records provided under paragraph (1)(i) of this subsection shall be provided:

(i) Within 24 hours after the health care provider receives a written request for the records from the public defender; and

(ii) Only if the individual has not yet retained private counsel.

(d) When a disclosure is sought under this section:

(1) A written request for disclosure or written confirmation by the health care provider of an oral request that justifies the need for disclosure shall be inserted in the medical record of the patient or recipient; and

(2) Documentation of the disclosure shall be inserted in the medical record of the patient or recipient.

(e) (1) Subject to paragraph (2) of this subsection, a health care provider shall disclose a medical record in accordance with compulsory process not later than 30 days after receiving:

(i) The documentation required under subsection (b)(6) of this section; and

(ii) Any fees owed to the health care provider by the party or the attorney representing the party seeking the medical record for the retrieval, copying, preparation, mailing, and actual cost of postage and handling of the medical record under § 4–304(c) of this subtitle.

(2) On a showing of good cause, a health care provider may request up to 30 additional days beyond the date by which disclosure is required under paragraph (1) of this subsection to disclose a medical record.

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