

SENATE BILL 745

J1, J2, D3

7lr1767

By: **Senator Zirkin**

Introduced and read first time: February 3, 2017

Assigned to: Finance

A BILL ENTITLED

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.

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

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(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; and

(ii) For disclosures made under item (i)1A of this paragraph, 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
v.

Defendants

In the

For

Case No.: _____

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

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

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

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

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

20 _____
21 Attorney
22 (Firm Name
23 Attorney address
24 Attorney phone number)

25 Attorneys for (Name of
26 Party Represented)

27 Certificate of Service

28 I hereby certify that a copy of the foregoing notice was mailed, first-class postage
29 prepaid, this ____ day of _____, 20____ to

30 _____
31 Patient

32 _____
33 Each Counsel in Case

34 _____
35 Attorney

36 (iii) For disclosures made under item (i)1B of this paragraph, copies
37 of the following items that were mailed by certified mail and by mail sent first-class postage
38 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. _____ Defendants	In the _____ For _____ Case No.: _____
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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

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

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