

SENATE BILL 745

J1, J2, D3

7lr1767

By: **Senator Zirkin**

Introduced and read first time: February 3, 2017

Assigned to: Finance

Committee Report: Favorable

Senate action: Adopted

Read second time: March 21, 2017

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.

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.



(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:

(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

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		For
v.		
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 Attorney
4 (Firm Name
5 Attorney address
6 Attorney phone number)

7 Attorneys for (Name of
8 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.

Speaker of the House of Delegates.