

SENATE BILL 230

J1, J2, D3
SB 745/17 – FIN

8lr1529

By: **Senator Zirkin**

Introduced and read first time: January 19, 2018

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 6, 2018

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 not later than a certain number of days after
5 receiving certain documentation and certain fees; authorizing a health care provider,
6 on a showing of good cause, to request up to a certain number of additional days
7 beyond a certain date to disclose a certain medical record; and generally relating to
8 the disclosure of medical records by health care providers.

9 BY repealing and reenacting, without amendments,
10 Article – Health – General
11 Section 4–306(a) and (b)(6)
12 Annotated Code of Maryland
13 (2015 Replacement Volume and 2017 Supplement)

14 BY adding to
15 Article – Health – General
16 Section 4–306(d)
17 Annotated Code of Maryland
18 (2015 Replacement Volume and 2017 Supplement)

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

21 **Article – Health – General**

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 4–306.

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

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

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

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

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

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

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

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

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

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

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

30 2. This section; and

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

1 _____ In the
 2 Plaintiffs
 3 v. _____
 4 _____
 5 _____
 6 Defendants
 7 Case No.: _____

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

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

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

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

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

27 _____
 28 Attorney
 29 (Firm Name
 30 Attorney address
 31 Attorney phone number)

32 Attorneys for (Name of
 33 Party Represented)

34 Certificate of Service

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

37 _____
 38 Patient
 39 _____

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.

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

3 _____
4 Attorney
5 (Firm Name
6 Attorney address
7 Attorney phone number)

8 Attorneys for (Name of
9 Party Represented)

10 Certificate of Service

11 I hereby certify that a copy of the foregoing notice was mailed, first-class postage
12 prepaid, this ___ day of _____, 20_____ to

13 _____
14 Patient

15 _____
16 Each Counsel in Case

17 _____
18 Attorney

19 (D) (1) ~~A~~ SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A HEALTH
20 CARE PROVIDER SHALL DISCLOSE A MEDICAL RECORD IN ACCORDANCE WITH
21 COMPULSORY PROCESS NOT LATER THAN 30 DAYS AFTER RECEIVING THE;

22 (I) THE DOCUMENTATION REQUIRED UNDER SUBSECTION
23 (B)(6) OF THIS SECTION; AND

24 (II) ANY FEES OWED TO THE HEALTH CARE PROVIDER BY THE
25 PARTY OR THE ATTORNEY REPRESENTING THE PARTY SEEKING THE MEDICAL
26 RECORD FOR THE RETRIEVAL, COPYING, PREPARATION, MAILING, AND ACTUAL
27 COST OF POSTAGE AND HANDLING OF THE MEDICAL RECORD UNDER § 4-304(C) OF
28 THIS SUBTITLE.

29 (2) ON A SHOWING OF GOOD CAUSE, A HEALTH CARE PROVIDER MAY
30 REQUEST UP TO 30 ADDITIONAL DAYS BEYOND THE DATE BY WHICH DISCLOSURE IS
31 REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION TO DISCLOSE A MEDICAL
32 RECORD.

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
34 October 1, 2018.