

SENATE BILL 385

J1

2lr1695
CF 2lr1707

By: **Senators Beidle and Feldman**

Introduced and read first time: January 24, 2022

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Health – Disclosure of Medical Records – Penalty**

3 FOR the purpose of altering the penalty for the knowing refusal by a health care provider
4 to disclose a medical record within a certain time; altering the definition of “medical
5 record” to include certain electronic data or information; and generally relating to
6 the disclosure of medical records.

7 BY repealing and reenacting, without amendments,
8 Article – Health – General
9 Section 4–301(a)
10 Annotated Code of Maryland
11 (2019 Replacement Volume and 2021 Supplement)

12 BY repealing and reenacting, with amendments,
13 Article – Health – General
14 Section 4–301(j) and 4–309(a)
15 Annotated Code of Maryland
16 (2019 Replacement Volume and 2021 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 4–301.

21 (a) In this subtitle the following words have the meanings indicated.

22 (j) (1) “Medical record” means any **ELECTRONIC**, oral, written, or other
23 transmission in any form or medium of **DATA OR** information that:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

4 (iii) Relates **IN ANY WAY** to the health care of the patient or recipient.

5 (2) "Medical record" includes any:

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

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

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

12 1. Requested the examination; or

13 2. Is making payment for the examination; **[and]**

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

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

17 2. Identifies or can readily be associated with the identity of
18 the patient or recipient; **AND**

19 (v) **DATA OR INFORMATION RELATING TO ANY ELECTRONIC,**
20 **ORAL, WRITTEN, OR OTHER TRANSMISSION REGARDING THE HEALTH CARE OF A**
21 **PATIENT OR RECIPIENT:**

22 1. **REGARDLESS OF HOW OR BY WHOM THE DATA OR**
23 **INFORMATION:**

24 **A. WAS INITIALLY CREATED; OR**

25 **B. IS MAINTAINED OR STORED; AND**

26 2. **MAINTAINED FOR AUDITING PURPOSES, INCLUDING**
27 **BY THE AMERICAN SOCIETY FOR TESTING AND MATERIALS.**

1 (a) [If a] **A** health care provider **WHO** knowingly refuses to disclose a medical
2 record within a reasonable time but no more than 21 working days after the date a person
3 in interest requests the disclosure[, the health care provider is liable] **MAY BE SUBJECT**
4 **TO A CIVIL PENALTY** for actual damages **OR \$1,000, WHICHEVER IS GREATER.**

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2022.