

(D) SAME — IDENTITY OF SUBSCRIBER OR CERTIFICATE HOLDER NOT DISCLOSED.

THIS SECTION DOES NOT PROHIBIT THE USE OF MEDICAL RECORDS, DATA, OR STATISTICS IF THE USE DOES NOT DISCLOSE THE IDENTITY OF A PARTICULAR SUBSCRIBER OR CERTIFICATE HOLDER.

(E) VIOLATION; CIVIL PENALTY.

A NONPROFIT HEALTH SERVICE PLAN THAT KNOWINGLY VIOLATES THIS SECTION IS LIABLE TO A PLAINTIFF FOR ANY DAMAGES RECOVERABLE IN A CIVIL ACTION, INCLUDING REASONABLE ATTORNEY'S FEES.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 48A, § 354-O.

Throughout this section, references to a "certificate holder" are added for consistency with terminology used elsewhere in this subtitle.

In subsections (a), (b)(1) and (2), the introductory language of (c), and (c)(7) of this section, the word "disclose" is substituted for the former word "reveal" for consistency with terminology used in Title 4, Subtitle 3 of the Health - General Article ("Confidentiality of Medical Records").

In subsection (a) of this section, the former phrase "to any person" is deleted as surplusage.

In subsection (b)(1) and (2) of this section, the reference to a "Blue Cross or Blue Shield plan" is added for consistency with subsections (a) and (c) of this section.

In the introductory language of subsection (c) of this section, the phrase "without the authorization of the subscriber or certificate holder" is added to state expressly that which was only implied in the former law.

In subsection (e) of this section, the reference to damages recoverable in a "civil action" is substituted for the former reference to damages recoverable "in law or equity" to reflect the 1984 revision of the Maryland Rules, which eliminated the pleading distinctions between law and equity.

The Insurance Article Review Committee notes, for consideration by the General Assembly, that former Art. 48A, § 354-O was first enacted in 1978 as part of an act (Chapter 728) relating to privacy of medical records that also enacted similar provisions in the former Health Article. The Committee also notes that the provisions of the Health - General Article relating to confidentiality of medical records were substantively revised in 1990 (Chapter 480). The General Assembly may wish to consider whether this section should also be substantively revised to ensure consistency with Title 4, Subtitle 3 of the Health - General Article.

Defined terms: "Agent" § 1-101

"Insurer" § 1-101