

Chapter 791

(Senate Bill 748)

AN ACT concerning

Public Health – State Designated Exchange – Clinical Information

FOR the purpose of requiring a nursing home, on request of the Maryland Department of Health, to electronically submit clinical information to the State designated exchange for a certain purpose; authorizing the State designated exchange to provide certain information to certain individuals and entities in a certain manner; providing that information submitted under a certain provision of this Act may be combined with other data maintained by the State designated exchange for a certain purpose under certain circumstances; providing that certain information submitted by a nursing home may only be used for a certain purpose and may not be used for any other purpose; requiring an electronic health network to provide certain transactions to the State designated exchange for certain purposes; prohibiting an electronic health network from charging a certain fee to a health care provider, health care payor, or the State designated exchange; requiring the State designated exchange to develop and implement certain policies and procedures; authorizing the Maryland Health Care Commission to adopt certain regulations; altering the purposes to which certain regulations adopted by the Commission are required to limit the scope of certain information; ~~providing requiring~~ that certain regulations adopted by the Commission ~~may~~ limit redisclosure of certain information and restrict certain data in relation to the exchange of certain information; requiring the Department to identify and seek certain funding; requiring the Commission to report to the Governor and the General Assembly on or before a certain date; defining certain terms; making stylistic changes; and generally relating to the State designated exchange and the sharing of clinical information.

BY repealing and reenacting, with amendments,

Article – Health – General

Section 4–302.3

Annotated Code of Maryland

(2019 Replacement Volume and 2020 Supplement)

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

Article – Health – General

4–302.3.

(a) (1) In this section the following words have the meanings indicated.

(2) “ELECTRONIC HEALTH CARE TRANSACTIONS” MEANS HEALTH CARE TRANSACTIONS THAT HAVE BEEN APPROVED BY A NATIONALLY RECOGNIZED HEALTH CARE STANDARDS DEVELOPMENT ORGANIZATION TO SUPPORT HEALTH CARE INFORMATICS, INFORMATION EXCHANGE, SYSTEMS INTEGRATION, AND OTHER HEALTH CARE APPLICATIONS.

~~(2)~~ **(3) “ELECTRONIC HEALTH NETWORK” MEANS AN ENTITY INVOLVED:**

(I) INVOLVED IN THE EXCHANGE OF ELECTRONIC HEALTH CARE TRANSACTIONS BETWEEN A PAYOR, HEALTH CARE PROVIDER, VENDOR, AND ANY OTHER ENTITY; AND

(II) CERTIFIED BY THE MARYLAND HEALTH CARE COMMISSION.

~~(3)~~ **(4) “NURSING HOME” HAS THE MEANING STATED IN § 19-1401 OF THIS ARTICLE.**

~~(2)~~ ~~(4)~~ **(5) “Standard request” means a request for clinical information from a health information exchange that conforms to the major standards version specified by the Office of the National Coordinator for Health Information Technology.**

~~(3)~~ ~~(5)~~ **(6) “State designated exchange” means the health information exchange designated by the Maryland Health Care Commission and the Health Services Cost Review Commission under § 19-143 of this article.**

(b) This section applies to:

(1) Except for the State designated exchange, a health information exchange operating in the State; and

(2) A payor that:

(i) Holds a valid certificate of authority issued by the Maryland Insurance Commissioner; and

(ii) Acts as, operates, or owns a health information exchange.

(c) An entity to which this section applies shall connect to the State designated exchange in a manner consistent with applicable federal and State privacy laws.

(d) When a standard request for clinical information is received through the State designated exchange, an entity to which this section applies shall respond to the request to the extent authorized under federal and State privacy laws.

(e) A consent from a patient to release clinical information to a provider obtained by an entity to which this section applies shall apply to information transmitted through the State designated exchange or by other means.

(F) (1) ON REQUEST OF THE DEPARTMENT, A NURSING HOME SHALL SUBMIT ELECTRONICALLY CLINICAL INFORMATION TO THE STATE DESIGNATED EXCHANGE TO FACILITATE THE OBJECTIVES STATED IN PARAGRAPH (3) OF THIS SUBSECTION.

(2) IN ACCORDANCE WITH STATE AND FEDERAL LAW AND TO FACILITATE THE OBJECTIVES STATED IN PARAGRAPH (3) OF THIS SUBSECTION, THE STATE DESIGNATED EXCHANGE MAY PROVIDE THE INFORMATION SUBMITTED UNDER PARAGRAPH (1) OF THIS SUBSECTION TO:

(I) A HEALTH CARE PROVIDER;

(II) AN AUTHORIZED HEALTH INFORMATION EXCHANGE USER;

(III) A HEALTH INFORMATION EXCHANGE AUTHORIZED BY THE MARYLAND HEALTH CARE COMMISSION;

(IV) A FEDERAL OFFICIAL; AND

(V) A STATE OFFICIAL.

(3) (I) IF APPROVED BY THE MARYLAND HEALTH CARE COMMISSION, THE INFORMATION SUBMITTED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY BE COMBINED WITH OTHER DATA MAINTAINED BY THE STATE DESIGNATED EXCHANGE TO FACILITATE:

~~(I)~~ 1. A STATE HEALTH IMPROVEMENT PROGRAM;

~~(II)~~ 2. MITIGATION OF A PUBLIC HEALTH EMERGENCY; AND

~~(III)~~ 3. IMPROVEMENT OF PATIENT SAFETY.

(II) THE INFORMATION SUBMITTED BY A NURSING HOME UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY BE USED ONLY TO FACILITATE THE OBJECTIVES STATED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH AND MAY NOT BE USED FOR ANY OTHER PURPOSE, INCLUDING LICENSING AND CERTIFICATION.

(G) (1) AN ELECTRONIC HEALTH NETWORK SHALL PROVIDE ~~ADMINISTRATIVE~~ ELECTRONIC HEALTH CARE TRANSACTIONS TO THE STATE

DESIGNATED EXCHANGE FOR THE FOLLOWING PUBLIC HEALTH AND CLINICAL PURPOSES:

- (I) A STATE HEALTH IMPROVEMENT PROGRAM;**
- (II) MITIGATION OF A PUBLIC HEALTH EMERGENCY; AND**
- (III) IMPROVEMENT OF PATIENT SAFETY.**

(2) AN ELECTRONIC HEALTH NETWORK MAY NOT CHARGE A FEE TO A HEALTH CARE PROVIDER, HEALTH CARE PAYOR, OR TO THE STATE DESIGNATED EXCHANGE FOR PROVIDING THE INFORMATION AS REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(3) THE STATE DESIGNATED EXCHANGE SHALL DEVELOP AND IMPLEMENT POLICIES AND PROCEDURES TO IMPLEMENT PARAGRAPH (1) OF THIS SUBSECTION THAT ARE CONSISTENT WITH REGULATIONS ADOPTED BY THE MARYLAND HEALTH CARE COMMISSION.

[(f)] (H) The Maryland Health Care Commission:

(1) May adopt regulations for implementing the connectivity to the State designated exchange required under this section; and

(2) Shall seek, through any regulations adopted under item (1) of this subsection, to promote technology standards and formats that conform to those specified by the Office of the National Coordinator for Health Information Technology.

[(g)] (I) (1) The Maryland Health Care Commission may adopt regulations [specifying] THAT:

(I) SPECIFY the scope of clinical information to be exchanged under this section; AND

(II) PROVIDE FOR A UNIFORM, GRADUAL IMPLEMENTATION OF THE EXCHANGE OF CLINICAL INFORMATION UNDER THIS SECTION.

(2) Any regulations adopted under paragraph (1) of this subsection shall limit the scope of the clinical information to purposes that [promote]:

(i) [Improved] **IMPROVE** access to clinical records by treating clinicians; or

(ii) [Uses] **PROMOTE USES** of the State designated exchange important to public health agencies.

(3) REGULATIONS ADOPTED UNDER PARAGRAPH (1) OF THIS SUBSECTION ~~MAY~~ SHALL:

(I) LIMIT REDISCLOSURE OF FINANCIAL INFORMATION, INCLUDING BILLED OR PAID AMOUNTS AVAILABLE IN ELECTRONIC CLAIMS TRANSACTIONS;

(II) RESTRICT DATA OF PATIENTS WHO HAVE OPTED OUT OF RECORDS SHARING THROUGH THE STATE DESIGNATED EXCHANGE OR A HEALTH INFORMATION EXCHANGE AUTHORIZED BY THE MARYLAND HEALTH CARE COMMISSION; AND

(III) RESTRICT DATA FROM HEALTH CARE PROVIDERS THAT POSSESS SENSITIVE HEALTH CARE INFORMATION.

[h) (J) This section does not:

(1) Require an entity to which this section applies to collect clinical information or obtain any authorizations, not otherwise required by federal or State law, relating to information to be sent or received through the State designated exchange;

(2) Prohibit an entity to which this section applies from directly receiving or sending information to providers or subscribers outside of the State designated exchange; or

(3) Prohibit an entity to which this section applies from connecting and interoperating with the State designated exchange in a manner and scope beyond that required under this section.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) The Maryland Department of Health shall identify and seek appropriate funding to implement Section 1 of this Act.

(b) On or before January 1, 2022, the Maryland Health Care Commission shall report to the Governor and, in accordance with § 2-1257 of the State Government Article, the General Assembly on:

(1) the availability of funding to implement Section 1 of this Act; and

(2) the sustainability of the technical infrastructure required to implement Section 1 of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2021.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 30, 2021.