

**2021 Organization Sign-On HB 1375 Senate Side.pdf**

Uploaded by: Elliott, Robyn

Position: FAV



**To:** Senate Finance Committee

**RE:** House Bill 1375 - Health Information Exchanges - Electronic Health Information - Sharing and Disclosure

**Position:** Support

**Date:** April 7, 2021

Our organizations strongly support *House Bill 1375 – Health Information Exchanges – Electronic Health Information – Sharing and Disclosure*. The bill would require the establishment of a “one-stop” website where consumers could opt out of the sharing of their personal health information beyond their rendering provider.

This bill is critical in advancing consumer privacy in the increasingly interconnected world of shared electronic health records. Consumers already have the legal right to opt-out of sharing their health records with practitioners who are not directly providing their care. This means, consumers may choose for only the immediate rendering provider to have access to the record of a particular visit or episode of care. However, very few consumers are able to navigate opt-out provisions of any system used by their provider, such as CRISP or MyChart. This issue is compounded when consumers have multiple providers who use multiple systems.

Under the bill, the Maryland Health Care Commission would facilitate the establishment of a “one-stop” website where consumers could opt-out of sharing their health records across multiple systems. This proposal is the most effective and efficient way for consumers to navigate privacy options for sharing their health records. The bill would not affect the Prescription Drug Monitoring Program, and all information about controlled dangerous substance prescriptions would continue to be shared.

**Protecting consumer privacy is critical in protecting the health of people at risk for discrimination and stigma. When consumers are concerned that their privacy may be compromised by the sharing of records, they may either forego or delay care.** These consumers include those seeking the following types of services: reproductive health including treatment of sexually transmitted infections, LGBTQ, PrEP and HIV care, behavioral health, and services to support survivors of domestic violence and sexual assault.

Thank you for your attention to the issue of privacy of electronic health records. We ask for a favorable report on HB 1375. You may reach our coalition through Robyn Elliott at (443) 926-3443 or [relliott@policypartners.net](mailto:relliott@policypartners.net).

Baltimore City Behavioral Health  
Directorate

Health Care for the Homeless

Institutes for Behavioral Resources/REACH

Licensed Clinical Professional Counselors of  
Maryland

Maryland Addictions Directors Council

Maryland Association for the Treatment of  
Opioid Dependence

Maryland Coalition Against Sexual Assault

Maryland-DC Society of Addiction Medicine

Maryland Network Against Domestic Violence

Mental Health Association of Maryland

NARAL ProChoice Maryland

National Alliance on Mental Illness-Maryland

National Association of Social Workers –  
Maryland Chapter

National Council on Alcoholism and Drug  
Dependence-Maryland

On Our Own of Maryland

Planned Parenthood of Maryland

Public Justice Center

Women’s Law Center of Maryland

# **HB 1375 Sponsor Testimony**

Uploaded by: Kelly, Ariana

Position: FAV

ARIANA KELLY  
Legislative District 16  
Montgomery County

DEPUTY MAJORITY WHIP

Health and Government  
Operations Committee

*Subcommittees*

Chair, Health Occupations  
and Long Term Care

Insurance and Pharmaceuticals

House Chair, Joint Committee on  
Children, Youth, and Families



The Maryland House of Delegates  
6 Bladen Street, Room 425  
Annapolis, Maryland 21401  
410-841-3642 · 301-858-3642  
800-492-7122 Ext. 3642  
Fax 410-841-3026 · 301-858-3026  
Ariana.Kelly@house.state.md.us

THE MARYLAND HOUSE OF DELEGATES  
ANNAPOLIS, MARYLAND 21401

**Delegate Ariana Kelly Statement**  
**HB 1375 - Health Information Exchanges - Electronic Health Information - Sharing and**  
**Disclosure**  
**April 7, 2021**

Chair Kelley, Vice Chair Feldman, and Members of the Committee:

Thank you for allowing me to present HB 1375, a bill that simplifies health information privacy for all Marylanders. I took this bill on as a late file because of its enormous importance to any consumer with sensitive health data, such as victims of domestic violence, people who suffer from substance abuse and mental health challenges, and women who fear reprisals associated with reproductive health.

Maryland has 11 health information exchanges, or HIEs. HIEs have transformed medical care by enabling providers to easily share our information with other providers, but some information is more sensitive and people wish to keep it private. Every HIE has a privacy opt-out mechanism, but the opt-out is effective only for the specific HIE. HB 1375 requires the establishment of a one-stop opt-out website so that consumers can choose to opt-out once and have their privacy instruction be received and respected by all 11 HIEs.

As introduced, the bill also would have conformed Maryland's statutory definition of HIE to a new federal definition that is effective on April 5. Stakeholders objected to Maryland making this change immediately, so the amended bill now directs the Maryland Health Care Commission to convene stakeholders and recommend a new definition by December 1.

I hope you will agree with more than a dozen consumer and patient advocacy groups that personal health care privacy is important and should be simplified, and that you will support this bill.

# **HB1375\_MHCC\_FWA**

Uploaded by: DeShields, Tracey

Position: FWA

STATE OF MARYLAND



Andrew N. Pollak  
CHAIR

Ben Steffen  
EXECUTIVE DIRECTOR

## MARYLAND HEALTH CARE COMMISSION

4160 PATTERSON AVENUE – BALTIMORE, MARYLAND 21215  
TELEPHONE: 410-764-3460 FAX: 410-358-1236

### 2021 SESSION POSITION PAPER

**BILL NO:** HB 1375  
**COMMITTEE:** Finance Committee  
**POSITION:** SUPPORT as amended

---

**TITLE:** Health Information Exchanges - Electronic Health Information - Sharing and Disclosure

#### BILL ANALYSIS

House Bill 1375 (“HB 1375”) requires the Maryland Health Care Commission (MHCC) to adopt regulations for the privacy and security of protected health information obtained or released through a health information exchange (HIE). HB 1375 governs the access, use, maintenance, disclosure, and redisclosure of protected health information (PHI) and includes protections for the secondary use of PHI obtained or released through an HIE. The bill requires the State-Designated HIE, to develop and maintain a consent management utility (CMU), which allows a person in interest to opt-out of having their electronic health information shared or disclosed by an HIE.<sup>1</sup> HB 1375 requires the State-Designated HIE to provide an HIE with the opt-out status of a person, on receipt of an electronic request from that HIE for the opt-out status of the person in interest, before sharing or disclosing the person’s electronic health information.

#### POSITION AND RATIONALE

The Maryland Health Care Commission (the “Commission”) supports as amended HB 1375.

HIEs emerged more than a decade ago because of the federal Health Information Technology for Economic and Clinical Health (HITECH) Act of 2009, which provided funding for the establishment of HIEs by states or state-designated entities to support electronic data sharing. HIEs build secure and robust connections to enable the exchange of health data from disparate health information systems operated by providers, payers, electronic health record vendors, and government agencies. Although consumers recognize the need for and the benefit of electronically sharing their health information, they want and expect to control who has access to

---

<sup>1</sup> CRISP is the State-Designated Health Information Exchange

*Note: The Maryland Health Care Commission is an independent State agency, and the position of the Commission may differ from the position of the Maryland Department of Health.*

their electronic health information. The establishment of a centralized CMU will help minimize concerns consumers often raise about privacy and security.

The bill requires the State-Designated HIE, in compliance with regulations to be adopted by MHCC, to develop an on-line CMU that will enable a consumer to opt-out from having all or part of their electronic health information stored or disclosed by HIEs.<sup>2</sup> The bill requires the State-Designated HIE to establish and maintain a centralized CMU of consumers' opt-out choices, which an HIE must access and honor prior to responding to a query for an individual's electronic health information. The bill will enable consumers to control access to their electronic health information while also standardizing the flow of information among HIEs and health care providers.<sup>3</sup>

HIEs connect health care providers, enable the electronic sharing of health information, and reduce duplication of services. A centralized CMU maintained by the State-Designated HIE will allow consumers to fill out one form to opt-out from having their electronic health information shared among HIEs. Today, consumers choosing to opt-out or opt back into an HIE may need to complete separate request forms for up to 11 different HIEs operating in Maryland. These processes are onerous for consumers. The bill directs the State-Designated HIE to develop and operate a centralized CMU that HIEs operating in Maryland must access prior to sharing or disclosing an individual's electronic health information. The bill provides a single solution for consumers to securely record and share their data sharing preferences with all HIEs.

This legislation reflects the work that MHCC and its HIE Policy Board undertook several years ago. The Commission asks for a favorable report on HB 1375 as amended.

---

<sup>2</sup> COMAR 10.25.18 Health Information Exchanges: Privacy and Security of Protected Health Information requires all entities that meet the statutory definition of an HIE to register with MHCC.

<sup>3</sup> Except in emergency situations defined at H-G §4-301(e).