

STATE OF MARYLAND



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2021 SESSION POSITION PAPER

BILL NO: HB 1022
COMMITTEE: Health and Government Operations Committee
POSITION: SUPPORT

TITLE: Public Health – State Designated Exchange – Clinical Information

BILL ANALYSIS

House Bill 1022 (“HB 1022”) requires a nursing home to electronically submit clinical health care information to the State-Designated Health Information Exchange (HIE), Chesapeake Regional Informational System for our Patients (CRISP). The bill authorizes CRISP to provide health information to health care providers, health information exchange users, and State and federal officials to facilitate a state health improvement program, mitigate a public health emergency, and to improve patient safety. HB 1022 also provides for the protection of health information by limiting redisclosure of financial information, restricts information from individuals who have opted-out of information sharing, and restricts data from health care providers that possess sensitive health care information.

POSITION AND RATIONALE

The Maryland Health Care Commission (the “Commission”) supports HB 1022.

The Commission is responsible for advancing health information technology in Maryland. The value of a health information exchange (HIE) rests in the promise that more efficient access to and effective use of electronic health information can improve care delivery while reducing health care costs. The availability of electronic health information during treatment improves all aspects of care delivery including safety, effectiveness, patient-centeredness, and quality of care.¹ The recognized benefits of HIE to patients and providers have not been sufficient to generate the momentum to eliminate longstanding information gaps. Accurate, complete, and

¹ Health Information Exchange. What is HIE? Washington, DC: Department of Health and Human Services. healthit.gov/topic/health-it-and-health-information-exchange-basics/health-information-exchange. Accessed April 18, 2014.

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.

timely information to support high quality care and appropriate care coordination when older adults transfer between nursing homes and hospitals is often missing.² The consequence for patients is often prolonged hospital stays or another readmission after the initial hospital discharge. This legislation will enable improved information flows when a transfer or discharge occurs.

A second key feature of the legislation is enabling information exchange between electronic health networks and the State-Designated HIE for public health reporting and surveillance. Public health surveillance for monitoring public health and for activating prevention and control to combat disease are key to population health. Requiring electronic health networks to provide administrative transactions to the State-Designated HIE will help Maryland expand the scope of public health surveillance.³ Administrative transactions can be used to improve the quality of public health services during investigations, contact tracing during a public health emergency, and reporting to assure cases are referred.⁴ This information can also be used to identify gaps in care and the quick remediation of those gaps before serious consequences develop for the patient. This information also enables providers to better align care with recommended guidelines and best practices.⁵

CRISP is a key component of health care reform in Maryland as it provides the framework for the State's Total Cost of Care Model. The State-Designated HIE is responsible for building and maintaining the technical infrastructure that can support the secure exchange of electronic health information. In 2009, the Maryland General Assembly (General Assembly), in Health-General §19-143, charged the Commission and the Health Services Cost Review Commission with the designation of a statewide HIE. The Commission subsequently requested applications from HIE entities for State designation, and in 2009 CRISP was competitively selected.⁶

The Commission is well-suited to develop supporting regulations required by the bill. In 2011, the General Assembly enacted legislation that required the Commission to adopt regulations governing the privacy and security of electronic protected health information (PHI) obtained or released through an HIE.^{7, 8} The Commission worked with stakeholders to develop supporting regulations, COMAR 10.25.18, *Health Information Exchanges: Privacy and Security of*

² EHR Intelligence, *Health Information Exchange Tools Needed in Nursing Homes*. June 2015. Available at: ehrintelligence.com/news/health-information-exchange-tools-needed-in-nursing-homes.

³ The Journal for Electronic Health Data and Methods, *Applications of Electronic Health Information in Public Health: Uses, Opportunities & Barriers*. October 2013. Available at: ncbi.nlm.nih.gov/p.m./articles/PMC4371418/.

⁴ *Ibid.*

⁵ See n. 3, *Supra*.

⁶ As part of this designation, CRISP and the Commission entered into a three-year Memorandum of Understanding (MOU) on October 29, 2009 that incorporated the terms of CRISP's response to the Commission's *Request for Applications*, which was the basis for its designation as the State-Designated HIE. Since then, CRISP and the Commission have entered into an MOU on March 11, 2013, April 21, 2016, and again on July 18, 2019.

⁷ Md. Code Ann., Health-Gen. §§4-301, 4-302.2, 4-302.3, and 4-302.4 (2011).

⁸ PHI means all individually identifiable health information, including demographic data, that relates to the individual's past, present or future physical or mental health or condition, the provision of health care to the individual, or the past, present, or future payment for the provision of health care to the individual, and that identifies the individual or for which there is a reasonable basis to believe it can be used to identify the individual, held or transmitted by a covered entity or its business associate, in any form or media, whether electronic, paper, or oral.

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Protected Health Information (regulations).⁹ The regulations became effective in March 2014 and expand on the privacy and security protections established by the Health Insurance Portability and Accountability Act of 1996 (HIPAA).¹⁰ The Administrative Simplification provisions under HIPAA established national standards for the security of PHI. These standards represent minimum protections that covered entities must meet.¹¹ State regulations balance the need for increased data sharing with the need for enhanced protection of electronic PHI.

For these reasons, the Commission asks for a favorable report on HB 1022.

⁹ COMAR 10.25.18, Health Information Exchanges: *Privacy and Security of Protected Health Information*. Also available at: dsd.state.md.us/coma/SubtitleSearch.aspx?search=10.25.18.

¹⁰ P.L. 104-191 went into effect in August 1996.

¹¹ Covered entities include health plans, health care clearinghouses, and certain health care providers.

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