Department of Legislative Services

Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 249 (Senator Pugh, *et al.*)
Finance Economic Matters

Commission on Maryland Cybersecurity Innovation and Excellence - Duties and Membership

This bill requires the Commission on Maryland Cybersecurity Innovation and Excellence to work, in collaboration with the Maryland Heath Care Commission (MHCC) and other stakeholders, to develop strategies to enable organizations that adopt telemedicine to practice safe security techniques to minimize successful cyber attacks. The bill alters the membership of the commission by adding the chair of MHCC, or the chair's designee. The bill also stipulates that, to the extent practicable, commission members appointed by the Governor must reasonably reflect the geographic, racial, ethnic, cultural, and gender diversity of the State.

The bill takes effect July 1, 2014.

Fiscal Summary

State Effect: The University of Maryland University College (UMUC) can continue to use existing budgeted resources to provide staff support to the commission, despite the bill's expansion of the commission's charge. The bill's requirements will not materially affect MHCC operations or finances. Any expense reimbursements for commission members are assumed to be minimal and absorbable within budgeted resources. Revenues are not affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law/Background:

Commission on Maryland Cybersecurity Innovation and Excellence

Chapters 250 and 251 of 2011 established the Commission on Maryland Cybersecurity Innovation and Excellence to (1) review current federal and State laws, standards, and policies for inconsistencies and preemption issues; (2) provide recommendations regarding strategic plans to promote cybersecurity innovation and recover from attacks on cybersecurity; and (3) recommend methods of promoting innovation through public-private partnerships, the education system, research and development, and selection of a State agency suitable to implement a pilot program. The commission membership must include, among others, the following gubernatorial appointees: (1) five representatives of cybersecurity companies; (2) three representatives from business associations; and (3) four representatives from higher education institutions. UMUC was tasked to provide staff support for the commission, which held its initial meeting on November 22, 2011, and submitted its interim report to the Governor and the General Assembly on December 23, 2011.

The commission met three times in 2013. The commission heard two presentations on the State-designated health information exchange (HIE) by the Maryland Health Care Commission's (MHCC) Center for Health Information Technology. "Health information exchange" means an infrastructure that provides organizational and technical capabilities for the electronic exchange of protected health information among entities not under common ownership. The State-designated HIE is the Chesapeake Regional Information System for our Patients. The presentations provided an overview of HIEs, discussed the State-designated HIE progress, and reviewed MHCC's proposed HIE regulations.

The commission is required to submit its final findings and recommendations to the Governor and the General Assembly by September 1, 2014.

Telemedicine

"Telemedicine" is the use of interactive audio, video, or other telecommunications or electronic technology by a licensed health care provider to deliver a health care service within the scope of practice of the provider at a site other than the site at which the patient is located. Telemedicine does not include audio-only telephone calls, email messages, or communications via fax.

In June 2010, the Maryland Health Quality and Cost Council approved the creation of the Maryland Telemedicine Task Force, which submitted its final report to the council in

December 2011. Finding that the use of telemedicine increases access to health care, reduces health disparities, and creates efficiencies in health care delivery, the task force identified the following recommendations to promote telemedicine in Maryland: (1) State-regulated payors should reimburse for telemedicine services; (2) a centralized telemedicine network built on existing industry standards should be established; and (3) changes should be implemented in the licensure, credentialing, and privileging of providers to facilitate the adoption of telemedicine. The task force also recommended that Medicaid's telemental health pilot program continue and that Maryland Medicaid consider the financial impact of supporting telemedicine and propose a reasonable adoption strategy relating to telemedicine services.

Chapters 579 and 580 of 2012 implemented the task force's first recommendation by requiring insurers, nonprofit health service plans, and health maintenance organizations to cover and reimburse for health care services appropriately delivered through telemedicine. In addition, Chapters 579 and 580 required the Department of Health and Mental Hygiene to conduct a review of literature and evidence regarding telemedicine, the telemedicine policies and procedures of other payors and state Medicaid agencies, and the potential fiscal issues related to Medicaid coverage and telemedicine.

Chapter 324 of 2013 addressed the third recommendation by authorizing a hospital, in its credentialing and privileging process for a physician who provides medical services to patients at the hospital only by telemedicine from a distant-site hospital or telemedicine entity, to rely on the credentialing and privileging decisions made for the physician by the distant-site hospital or telemedicine entity, as authorized under specified federal regulations. A hospital may do so only if (1) the physician holds a license to practice medicine in Maryland and (2) the medical staff of the hospital approves and recommends the credentialing and privileging decisions to the hospital's governing body.

Chapter 280 of 2013, implementing another task force recommendation, required the Medicaid program, unless otherwise specifically prohibited or limited by federal or State law, to reimburse a health care provider for a health care service delivered by telemedicine in the same manner as the same health care service is reimbursed when delivered in person. Reimbursement is required only for a health care service that is medically necessary and is provided (1) for the treatment of cardiovascular disease or stroke; (2) in an emergency department setting; and (3) when an appropriate specialist is not available.

Chapter 319 of 2013 reconvened the Telemedicine Task Force to (1) identify opportunities to use telehealth to improve health status and health care delivery; (2) assess factors related to telehealth; (3) identify strategies for telehealth deployment in rural areas of the State; and (4) study any other topic that MHCC finds necessary to make recommendations regarding the use of telehealth in the State.

Telehealth is a broader term than telemedicine. Telehealth is the use of electronic information and telecommunications technologies to support long-distance clinical health care, patient and professional health-related education, public health, and health administration. Technologies include videoconferencing, streaming media, and terrestrial and wireless communications.

In December 2013, the task force submitted an interim report that contained updates on the use of telemedicine in Maryland and on task force activities. The taskforce reported that telemedicine adoption in Maryland has been slow with approximately 46% of Maryland acute hospitals and roughly 10% of Maryland physicians reportedly using telemedicine in 2012 and an estimated 78 claims processed by State-regulated payors for telemedicine services in the nine months following the effective date of Chapters 579 and 580 of 2012.

The task force identified the availability of information about providers rendering telemedicine and integrating technology solutions with existing electronic health records and the State-designated HIE as barriers to telemedicine. To address these barriers, the task force envisions a registry that would be made available through the State-designated HIE portal, and provide information on telemedicine providers, technology used, third payer network, and provide immediate consultative support. The task force identified complying with federal and State privacy and security laws as one policy consideration in developing the registry.

MHCC is required to submit a final report on behalf of the task force by December 1, 2014. The task force intends to provide legislative recommendations at that time.

Additional Information

Prior Introductions: SB 494 of 2013, a similar bill, passed the Senate, but the House Economic Matters Committee did not take any action on the bill. Its cross file, HB 937, received an unfavorable report from the House Economic Matters Committee.

Cross File: None.

Information Source(s): Department of Health and Mental Hygiene, Department of Information Technology, University System of Maryland, Department of Legislative Services

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