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§4-302.2.

(a) The Maryland Health Care Commission shall adopt regulations for the privacy and security of protected health information obtained or released through a health information exchange by:

- (1) A health care provider;
- (2) A payor that holds a valid certificate of authority issued by the Maryland Insurance Commissioner;
- (3) A health care consumer; or
- (4) Any person authorized by a health care consumer to act on behalf of the health care consumer.

(b) The regulations adopted under subsection (a) of this section shall:

(1) Govern the access, use, maintenance, disclosure, and redisclosure of protected health information as required by State or federal law, including the federal Health Insurance Portability and Accountability Act and the federal Health Information Technology for Economic and Clinical Health Act; and

(2) Include protections for the secondary use of protected health information obtained or released through a health information exchange.

(c) Data obtained or released through a health information exchange:

(1) May not be sold for financial remuneration until the regulations required under subsections (a) and (b) of this section are adopted; and

(2) May be sold for financial remuneration only in accordance with the regulations adopted under subsections (a) and (b) of this section.

(d) Regulations adopted under subsections (a) and (b) of this section may not apply to protected health information exchanged:

(1) Between a hospital and credentialed members of the hospital's medical staff;

(2) Among credentialed members of a hospital's medical staff; or

(3) Between a hospital and ancillary clinical service providers that are affiliated with the hospital and have signed a business associate agreement.

(e) The Maryland Health Care Commission shall consult with health care providers, payors, State health agencies, consumer advocates, and employers before adopting regulations under subsections (a) and (b) of this section.

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