

Chapter 296

(House Bill 1127)

AN ACT concerning

Public Health – State Designated Exchange – Health Data Utility

FOR the purpose of requiring the State designated exchange to operate as a health data utility for the State for certain purposes; requiring ~~the Maryland Department of Health, dispensers, and certain nursing homes and electronic health networks~~ dispensers to provide certain data to the State designated exchange; requiring dispensers to submit certain prescription information to the State designated exchange; requiring the State designated exchange to establish a certain consumer advisory council; and generally relating to the State designated exchange operating as a health data utility.

BY adding to

Article – Health – General

Section 19–145

Annotated Code of Maryland

(2019 Replacement Volume and 2021 Supplement)

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

Article – Health – General**19–145.**

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “DISPENSER” MEANS A PERSON AUTHORIZED BY LAW TO DISPENSE, AS DEFINED IN § 12–101 OF THE HEALTH OCCUPATIONS ARTICLE, A PRESCRIPTION DRUG TO A PATIENT OR THE PATIENT’S AGENT IN THE STATE.

(3) “NONCONTROLLED PRESCRIPTION DRUG” MEANS A PRESCRIPTION DRUG, AS DEFINED IN § 21–201 OF THIS TITLE, THAT IS NOT A CONTROLLED DANGEROUS SUBSTANCE DESIGNATED UNDER TITLE 5, SUBTITLE 4 OF THE CRIMINAL LAW ARTICLE.

~~(3)~~ (4) “STATE DESIGNATED EXCHANGE” HAS THE MEANING STATED IN § 4–302.3 OF THIS ARTICLE.

(B) THE STATE DESIGNATED EXCHANGE SHALL OPERATE AS A HEALTH DATA UTILITY FOR THE STATE.

(C) THE PURPOSES OF THE HEALTH DATA UTILITY INCLUDE ~~THE~~:

(1) THE COLLECTION, AGGREGATION, AND ANALYSIS OF CLINICAL INFORMATION, PUBLIC HEALTH DATA, AND HEALTH ADMINISTRATIVE AND OPERATIONS DATA TO ASSIST ~~HEALTH CARE AND PUBLIC HEALTH LEADERS~~ THE DEPARTMENT, LOCAL HEALTH DEPARTMENTS, THE COMMISSION, AND THE HEALTH SERVICES COST REVIEW COMMISSION IN THE EVALUATION OF PUBLIC HEALTH INTERVENTIONS AND HEALTH EQUITY;

(2) THE COMMUNICATION OF DATA ~~FROM~~ BETWEEN PUBLIC HEALTH OFFICIALS AND HEALTH CARE PROVIDERS TO ADVANCE DISEASE CONTROL AND HEALTH EQUITY; AND

(3) THE ENHANCEMENT AND ACCELERATION OF THE INTEROPERABILITY OF HEALTH INFORMATION THROUGHOUT THE STATE.

(D) ~~THE FOLLOWING ENTITIES~~ DISPENSERS SHALL PROVIDE DATA TO THE STATE DESIGNATED EXCHANGE:

(1) ~~THE DEPARTMENT;~~

(2) ~~NURSING HOMES REQUIRED TO PROVIDE DATA UNDER § 4-302.3 OF THIS ARTICLE;~~

(3) ~~ELECTRONIC HEALTH NETWORKS REQUIRED TO PROVIDE DATA UNDER § 4-302.3 OF THIS ARTICLE; AND~~

(4) ~~DISPENSERS.~~

(E) (1) THE PURPOSE OF THIS SUBSECTION IS TO:

(I) AUTHORIZE INDIVIDUALS AND ORGANIZATIONS INVOLVED IN THE TREATMENT AND CARE COORDINATION OF PATIENTS TO ACCESS, AS LEGALLY AUTHORIZED, A PATIENT'S MEDICATION HISTORY, INCLUDING MEDICATIONS PRESCRIBED FOR THE PATIENT; AND

(II) ASSIST HEALTH CARE PROVIDERS, CARE MANAGERS, THE DEPARTMENT, AND PUBLIC HEALTH OFFICIALS LOCAL HEALTH DEPARTMENTS TO

UNDERSTAND AND PROMOTE MATTERS OF HEALTH EQUITY AND TREATMENT EFFICACY.

(2) AFTER DISPENSING A NONCONTROLLED PRESCRIPTION DRUG, A DISPENSER SHALL SUBMIT PRESCRIPTION INFORMATION TO THE STATE DESIGNATED EXCHANGE.

(3) THE PRESCRIPTION INFORMATION SHALL BE SUBMITTED:

(I) BY ELECTRONIC MEANS;

(II) WITHOUT UNDULY INCREASING THE WORKLOAD AND EXPENSE ON A DISPENSER;

(III) IN A MANNER THAT MINIMIZES BURDEN AND DUPLICATION BY BEING AS COMPATIBLE AS POSSIBLE WITH EXISTING FEDERAL STANDARDS FOR DATA SUBMISSION PRACTICES, INCLUDING TECHNOLOGY SOFTWARE OF DISPENSERS; AND

(IV) AS OTHERWISE REQUIRED BY REGULATIONS ADOPTED BY THE COMMISSION.

(4) THE STATE DESIGNATED EXCHANGE MAY NOT IMPOSE ANY FEES OR OTHER ASSESSMENTS ON DISPENSERS TO SUPPORT THE OPERATION OF THE EXCHANGE.

(5) THE STATE DESIGNATED EXCHANGE SHALL MAKE PRESCRIPTION INFORMATION SUBMITTED UNDER THIS SUBSECTION AVAILABLE FOR PURPOSES OF TREATMENT AND CARE COORDINATION OF A PATIENT.

(F) THE STATE DESIGNATED EXCHANGE ~~SHALL~~ MAY PROVIDE DATA, AS ALLOWED BY LAW, ~~TO INDIVIDUALS AND ORGANIZATIONS INVOLVED IN THE TREATMENT AND CARE COORDINATION OF PATIENTS AND TO PUBLIC HEALTH OFFICIALS TO SUPPORT PUBLIC HEALTH GOALS,~~ FOR PUBLIC HEALTH PURPOSES THAT MAY INCLUDE:

(1) ~~UNDERSTANDING AND PROMOTING THE~~ EQUITABLE AVAILABILITY TO PATIENTS OF IMPROVING HEALTH EQUITY THROUGH ACCESS TO PRESCRIPTION MEDICATIONS, INCLUDING FOR THE TREATMENT OF INFECTIOUS DISEASE;

(2) ASSISTING PROGRAMS LED BY HEALTH CARE PROVIDERS, CARE MANAGERS, AND PUBLIC HEALTH OFFICIALS IN IDENTIFYING THE DEPARTMENT,

LOCAL HEALTH DEPARTMENTS, THE COMMISSION, AND THE HEALTH SERVICES COST REVIEW COMMISSION TO IDENTIFY OPPORTUNITIES TO USE TREATMENTS MORE EFFECTIVELY, FOR QUALITY IMPROVEMENT, INCLUDING FOR STEWARDSHIP OF ANTIBIOTIC MEDICATIONS; AND

~~(3) ANY ADDITIONAL PATIENT INTERVENTIONS AND ACTIVITIES, INCLUDING CASE INVESTIGATION~~ CONDUCTING CASE INVESTIGATIONS AND RELATED ACTIVITIES.

(G) INFORMATION SUBMITTED TO THE STATE INFORMATION EXCHANGE OR PROVIDED BY THE STATE INFORMATION EXCHANGE UNDER THIS SECTION SHALL BE SUBMITTED OR PROVIDED, TO THE EXTENT PRACTICABLE, IN AS NEAR TO REAL TIME AS POSSIBLE.

~~(G)~~ (H) (1) THE COMMISSION, IN CONSULTATION WITH APPROPRIATE STAKEHOLDERS, SHALL ADOPT REGULATIONS TO CARRY OUT THIS SECTION.

(2) THE REGULATIONS SHALL TAKE INTO ACCOUNT CONSUMER PERSPECTIVE AND INCLUDE:

(I) THE SPECIFIC DATA REQUIRED TO BE PROVIDED UNDER SUBSECTION (D) OF THIS SECTION;

(II) THE SPECIFIC PRESCRIPTION INFORMATION REQUIRED TO BE SUBMITTED UNDER SUBSECTION (E) OF THIS SECTION;

(III) THE TIME FRAME FOR SUBMITTING PRESCRIPTION INFORMATION UNDER SUBSECTION (E) OF THIS SECTION;

(IV) THE ELECTRONIC MEANS AND MANNER BY WHICH PRESCRIPTION INFORMATION IS TO BE SUBMITTED UNDER SUBSECTION (E) OF THIS SECTION; AND

(V) PRESCRIPTION INFORMATION SUBMISSION REQUIREMENTS THAT ALIGN WITH THE DATA SUBMISSION REQUIREMENTS ON DISPENSERS OF MONITORED PRESCRIPTION DRUGS UNDER TITLE 21, SUBTITLE 2A OF THIS ARTICLE; AND

(VI) IDENTIFICATION AND NECESSARY SUPPRESSION OF INFORMATION RELATED TO PROVIDERS OR MEDICATIONS THAT ARE DETERMINED TO HAVE SIGNIFICANT POTENTIAL TO CAUSE HARM.

(1) (1) THE STATE DESIGNATED EXCHANGE SHALL ESTABLISH A CONSUMER ADVISORY COUNCIL TO BRING THE PERSPECTIVES OF INDIVIDUALS AND ORGANIZATIONS WITH AN INTEREST IN PROTECTING CONSUMERS INTO THE DELIVERY OF SERVICES PROVIDED BY THE STATE DESIGNATED EXCHANGE.

(2) IN SELECTING MEMBERS, THE STATE DESIGNATED EXCHANGE SHALL CONSIDER DIVERSITY OF EXPERIENCE.

(3) THE CONSUMER ADVISORY COUNCIL ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL:

(i) CONSIST OF A MINIMUM OF SIX MEMBERS, INCLUDING AT LEAST FOUR CONSUMER REPRESENTATIVES AND TWO STAFF REPRESENTATIVES, AND MAINTAIN A RATIO OF CONSUMER REPRESENTATIVES TO NONCONSUMER REPRESENTATIVES OF AT LEAST TWO TO ONE;

(ii) IDENTIFY AND REPORT CONSUMER PRIVACY CONCERNS TO SENIOR LEADERSHIP OF THE STATE DESIGNATED EXCHANGE;

(iii) ADVISE ON EFFORTS TO EDUCATE CONSUMERS ON DATA EXCHANGE POLICIES, INCLUDING OPTIONS FOR CONSUMERS TO OPT OUT OF DISCLOSURE OF PROTECTED HEALTH INFORMATION;

(iv) MEET AT LEAST 3 TIMES EACH YEAR; AND

(v) ADOPT AND MAINTAIN A CHARTER TO BE POSTED ONLINE THAT INCLUDES THE PURPOSE, MEMBERS, AND MEETING SCHEDULE OF THE CONSUMER ADVISORY COUNCIL.

SECTION 2. AND BE IT FURTHER ENACTED, That on or before January 1, 2024, the Maryland Department of Health, the Maryland Health Care Commission, and the State designated exchange shall submit a report to the General Assembly, in accordance with § 2–1257 of the State Government Article, that identifies ongoing revenue sources to fund the activities required under § 19–145 of the Health – General Article, as enacted by Section 1 of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2022.

Approved by the Governor, May 12, 2022.