

BRIAN E. FROSH
Attorney General

WILLIAM D. GRUHN
Chief
Consumer Protection Division

ELIZABETH F. HARRIS
Chief Deputy Attorney General

CAROLYN QUATTROCKI
Deputy Attorney General

Writer's Direct Fax No.
(410) 576-6571

Writer's Direct Email:
poconnor@oag.state.md.us



STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION

Writer's Direct Dial No.
(410) 576-6515

January 31, 2022

To: The Honorable Shane E. Pendergrass
Chair, Health and Government Operations Committee

From: The Office of the Attorney General's Health Education and Advocacy Unit
(HEAU)

Re: House Bill 213 (Health Information Exchanges – Definition and Privacy Regulations): Information

The Office of the Attorney General's Health Education and Advocacy Unit (HEAU) submits the following information for the committee's consideration regarding this bill, which would make clear that electronic health record (EHR) vendors doing business in Maryland as the business associates of covered entities (hospitals, physicians, nursing homes, etc.) are Health Information Exchanges under Maryland law, and subject to the myriad consumer protections afforded to Marylanders. We strongly support that goal.

We believe patients are and should continue to be entitled to the consumer protections of current Maryland law, including, among other things, giving consumers the right and ability to control access to their health information; the power to opt-out of sharing health information other than for the purposes of treatment, payment and operations by covered entities; patient education about where, how, and by whom health information is being shared; and limitations on secondary uses, particularly the monetization of patient health data.

We understand that EHR vendors are monetizing patient data acquired through contracts with hospital systems and providers,¹ and also by entities associated with carriers, e.g., Optum for United Healthcare and Blue Intelligence for Blue Cross/Blue Shield.² Unfortunately there is virtually no transparency regarding how these activities are risking the health privacy and security of Maryland patients or how much money is being made off of Maryland patients and not being used to directly benefit them.

We have been working on the bill over the last few days with the Maryland Health Care Commission and look forward to continuing that work in subcommittee.

cc: Sponsor

¹ <https://sites.sanford.duke.edu/techpolicy/blog-data-broker-oracle-just-acquired-millions-sensitive-health-data/>

² <https://bluehealthintelligence.com/big-data/> and <https://www.optum.com/business/about/data-analytics-technology.html>