

**SB0744/387773/1**

BY: Finance Committee

AMENDMENTS TO SENATE BILL 744  
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, strike beginning with “requiring” in line 5 down through “date;” in line 15 and substitute “requiring the Maryland Health Care Commission and the Health Services Cost Review Commission to designate a health information exchange for the State on or before a certain date; requiring the Maryland Health Care Commission, on or before a certain date, to report on progress in implementing certain provisions of this Act; requiring, on or before a certain date, the Maryland Health Care Commission, following consultation with certain stakeholders, to post on its website for a public comment and submit to the Governor and certain legislative committees, a report on certain aspects of health information technology; requiring the committees to have a certain period of time for review and comment; requiring, on or before a certain date, the Maryland Health Care Commission, in consultation with the Department of Health and Mental Hygiene and others, to adopt regulations that require certain payors to provide incentives to health care providers to promote the adoption and certain use of electronic health records; establishing certain requirements for the incentives; providing that the incentives may include certain items and services; specifying that the regulations need not require incentives for certain types of health care providers; requiring the regulations to apply to certain entities under certain circumstances; requiring the Health Services Cost Review Commission and the Department, in consultation with certain other entities, to take certain actions that relate to the American Recovery and Reinvestment Act of 2009 and certain rules and regulations; requiring the Maryland Health Care Commission, on or before a certain date, to report to the Governor and the General Assembly on certain progress achieved and recommendations for changes that may be necessary for certain adoption and use of electronic health records;”; in line 15, after “the” insert “Maryland Health Care”; in line 16, strike the first “a”; in the same line, strike “organization” and substitute “organizations”; in line 17, after “the” insert “Maryland Health Care”; in line 19, strike “or” and substitute “and”; strike beginning with “prohibiting” in line 19 down through

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“circumstances;” in line 22; in line 23, strike “certain carriers” and substitute “State-regulated payors”; in line 24, strike “reimburse” and substitute “provide incentives to”; and in line 27, after “Act;” insert “defining certain terms;”.

On page 2, in line 6, strike “through 19–145” and substitute “and 19–143”.

AMENDMENT NO. 2

On page 3, in line 15, after “**ORGANIZATION;**” insert “OR”; and strike beginning with “**A**” in line 16 down through “**(5)**” in line 17.

On page 4, after line 4, insert:

**“(D) (1) “HEALTH BENEFIT PLAN” MEANS A HOSPITAL OR MEDICAL POLICY, CONTRACT, OR CERTIFICATE ISSUED BY A CARRIER.**

**(2) “HEALTH BENEFIT PLAN” DOES NOT INCLUDE:**

**(I) COVERAGE FOR ACCIDENT OR DISABILITY INCOME INSURANCE;**

**(II) COVERAGE ISSUED AS A SUPPLEMENT TO LIABILITY INSURANCE;**

**(III) LIABILITY INSURANCE, INCLUDING GENERAL LIABILITY INSURANCE AND AUTOMOBILE LIABILITY INSURANCE;**

**(IV) WORKERS’ COMPENSATION OR SIMILAR INSURANCE;**

**(V) AUTOMOBILE OR PROPERTY MEDICAL PAYMENT INSURANCE;**

(VI) CREDIT-ONLY INSURANCE;

(VII) COVERAGE FOR ON-SITE MEDICAL CLINICS;

(VIII) DENTAL OR VISION INSURANCE;

(IX) LONG-TERM CARE INSURANCE OR BENEFITS FOR NURSING HOME CARE, HOME HEALTH CARE, COMMUNITY-BASED CARE, OR ANY COMBINATION OF THESE;

(X) COVERAGE ONLY FOR A SPECIFIED DISEASE OR ILLNESS;

(XI) HOSPITAL INDEMNITY OR OTHER FIXED INDEMNITY INSURANCE; OR

(XII) THE FOLLOWING BENEFITS IF OFFERED AS A SEPARATE INSURANCE POLICY:

1. MEDICARE SUPPLEMENTAL HEALTH INSURANCE, AS DEFINED IN § 1882(G)(1) OF THE SOCIAL SECURITY ACT;

2. COVERAGE SUPPLEMENTAL TO THE COVERAGE PROVIDED UNDER CHAPTER 55 OF TITLE 10, U.S.C.; OR

3. SIMILAR SUPPLEMENTAL COVERAGE PROVIDED TO COVERAGE UNDER AN EMPLOYER-SPONSORED PLAN.”;

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and in lines 5 and 27, strike “(D)” and “(E)”, respectively, and substitute “(E)” and “(F)”, respectively.

On page 5, in line 1, strike “(F)” and substitute “(G)”; in line 2, strike “MULTIPLE” and substitute “ONE OR MORE”; strike lines 5 and 6 in their entirety; in line 7, after “(H)” insert “(1)”; strike line 8 in its entirety; in lines 9 and 11, strike “(2)” and “(3)”, respectively, and substitute “(I)” and “(II)”, respectively; in line 11, after “CARRIER” insert “ISSUING OR DELIVERING HEALTH BENEFIT PLANS IN THE STATE”; and after line 11, insert:

**“(2) “STATE-REGULATED PAYOR” DOES NOT INCLUDE A MANAGED CARE ORGANIZATION AS DEFINED IN TITLE 15, SUBTITLE 1 OF THIS ARTICLE.”.**

AMENDMENT NO. 3

On pages 5 through 7, strike in their entirety the lines beginning with line 13 on page 5 through line 9 on page 7, inclusive, and substitute:

**“(A) ON OR BEFORE OCTOBER 1, 2009, THE COMMISSION AND THE HEALTH SERVICES COST REVIEW COMMISSION SHALL DESIGNATE A HEALTH INFORMATION EXCHANGE FOR THE STATE.**

**(B) ON OR BEFORE JANUARY 1, 2010, THE COMMISSION SHALL:**

**(1) REPORT, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, TO THE SENATE FINANCE COMMITTEE AND THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE ON PROGRESS IN IMPLEMENTING THE REQUIREMENTS OF SUBSECTIONS (A) AND (D) OF THIS SECTION; AND**

(2) INCLUDE IN THE REPORT RECOMMENDATIONS FOR LEGISLATION SPECIFYING HOW INCENTIVES REQUIRED FOR STATE-REGULATED PAYORS THAT ARE NATIONAL CARRIERS SHALL TAKE INTO ACCOUNT EXISTING CARRIER ACTIVITIES THAT PROMOTE THE ADOPTION AND MEANINGFUL USE OF ELECTRONIC HEALTH RECORDS.

(C) (1) ON OR BEFORE JANUARY 1, 2011, FOLLOWING CONSULTATIONS WITH APPROPRIATE STAKEHOLDERS, THE COMMISSION SHALL POST ON ITS WEBSITE FOR PUBLIC COMMENT AND SUBMIT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE SENATE FINANCE COMMITTEE AND THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE A REPORT ON:

(I) THE DEVELOPMENT OF A COORDINATED PUBLIC-PRIVATE APPROACH TO IMPROVE THE STATE'S HEALTH INFORMATION INFRASTRUCTURE;

(II) ANY CHANGES IN STATE LAWS THAT ARE NECESSARY TO PROTECT THE PRIVACY AND SECURITY OF HEALTH INFORMATION STORED IN ELECTRONIC HEALTH RECORDS OR EXCHANGED THROUGH A HEALTH INFORMATION EXCHANGE IN THE STATE;

(III) ANY CHANGES IN STATE LAWS THAT ARE NECESSARY TO PROVIDE FOR THE EFFECTIVE OPERATION OF A HEALTH INFORMATION EXCHANGE;

(IV) ANY ACTIONS THAT ARE NECESSARY TO ALIGN FUNDING OPPORTUNITIES UNDER THE FEDERAL AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 WITH OTHER STATE AND PRIVATE SECTOR INITIATIVES RELATED TO HEALTH INFORMATION TECHNOLOGY, INCLUDING:

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1. THE PATIENT-CENTERED MEDICAL HOME;
2. THE ELECTRONIC HEALTH RECORD DEMONSTRATION PROJECT SUPPORTED BY THE FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES;
3. THE HEALTH INFORMATION EXCHANGE; AND
4. THE MEDICAID INFORMATION TECHNOLOGY ARCHITECTURE INITIATIVE; AND

(V) RECOMMENDED LANGUAGE FOR THE REGULATIONS REQUIRED UNDER SUBSECTION (D) OF THIS SECTION.

(2) THE SENATE FINANCE COMMITTEE AND THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE SHALL HAVE 60 DAYS FROM RECEIPT OF THE REPORT FOR REVIEW AND COMMENT.

(D) (1) ON OR BEFORE SEPTEMBER 1, 2011, THE COMMISSION, IN CONSULTATION WITH THE DEPARTMENT, PAYORS, AND HEALTH CARE PROVIDERS, SHALL ADOPT REGULATIONS THAT REQUIRE STATE-REGULATED PAYORS TO PROVIDE INCENTIVES TO HEALTH CARE PROVIDERS TO PROMOTE THE ADOPTION AND MEANINGFUL USE OF ELECTRONIC HEALTH RECORDS.

(2) INCENTIVES REQUIRED UNDER THE REGULATIONS:

(I) SHALL HAVE MONETARY VALUE;

**(II) SHALL FACILITATE THE USE OF ELECTRONIC HEALTH RECORDS BY HEALTH CARE PROVIDERS IN THE STATE;**

**(III) TO THE EXTENT FEASIBLE, SHALL RECOGNIZE AND BE CONSISTENT WITH EXISTING PAYOR INCENTIVES THAT PROMOTE THE ADOPTION AND MEANINGFUL USE OF ELECTRONIC HEALTH RECORDS;**

**(IV) SHALL TAKE INTO ACCOUNT:**

**1. INCENTIVES PROVIDED TO HEALTH CARE PROVIDERS UNDER MEDICARE AND MEDICAID; AND**

**2. ANY GRANTS OR LOANS THAT ARE AVAILABLE TO HEALTH CARE PROVIDERS FROM THE FEDERAL GOVERNMENT; AND**

**(V) MAY INCLUDE:**

**1. INCREASED REIMBURSEMENT FOR SPECIFIC SERVICES;**

**2. LUMP SUM PAYMENTS;**

**3. GAIN-SHARING ARRANGEMENTS;**

**4. REWARDS FOR QUALITY AND EFFICIENCY;**

**5. IN-KIND PAYMENTS; AND**

**6. OTHER ITEMS OR SERVICES TO WHICH A SPECIFIC MONETARY VALUE CAN BE ASSIGNED.**

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(3) THE REGULATIONS NEED NOT REQUIRE INCENTIVES FOR THE ADOPTION AND MEANINGFUL USE OF ELECTRONIC HEALTH RECORDS, FOR EACH TYPE OF HEALTH CARE PROVIDER LISTED IN § 19-142(E) OF THIS SUBTITLE.

(4) IF FEDERAL LAW IS AMENDED TO ALLOW THE STATE TO REGULATE PAYMENTS MADE BY ENTITIES THAT SELF-INSURE THEIR HEALTH BENEFIT PLANS, REGULATIONS ADOPTED UNDER THIS SECTION SHALL APPLY TO THOSE ENTITIES TO THE SAME EXTENT TO WHICH THEY APPLY TO STATE-REGULATED PAYORS.

(E) THE HEALTH SERVICES COST REVIEW COMMISSION, IN CONSULTATION WITH HOSPITALS, PAYORS, AND THE FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES, SHALL TAKE THE ACTIONS NECESSARY TO:

(1) ASSURE THAT HOSPITALS IN THE STATE RECEIVE THE PAYMENTS PROVIDED UNDER § 4102 OF THE FEDERAL AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 AND ANY SUBSEQUENT FEDERAL RULES AND REGULATIONS; AND

(2) IMPLEMENT ANY CHANGES IN HOSPITAL RATES REQUIRED BY THE FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES TO ENSURE COMPLIANCE WITH § 4102 OF THE FEDERAL AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 AND ANY SUBSEQUENT FEDERAL RULES AND REGULATIONS.

(F) THE DEPARTMENT, IN CONSULTATION WITH THE COMMISSION, SHALL DEVELOP A MECHANISM TO ASSURE THAT HEALTH CARE PROVIDERS



THAT PARTICIPATE IN THE MARYLAND MEDICAL ASSISTANCE PROGRAM RECEIVE THE PAYMENTS PROVIDED FOR ADOPTION AND USE OF ELECTRONIC HEALTH RECORDS TECHNOLOGY UNDER § 4201 OF THE FEDERAL AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 AND ANY SUBSEQUENT FEDERAL RULES AND REGULATIONS.

(G) ON OR BEFORE OCTOBER 1, 2012, THE COMMISSION SHALL REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON PROGRESS ACHIEVED TOWARD ADOPTION AND MEANINGFUL USE OF ELECTRONIC HEALTH RECORDS BY HEALTH CARE PROVIDERS IN THE STATE AND RECOMMENDATIONS FOR ANY CHANGES IN STATE LAWS THAT MAY BE NECESSARY TO ACHIEVE OPTIMAL ADOPTION AND USE.

(H) (1) ON OR BEFORE OCTOBER 1, 2012, THE COMMISSION SHALL DESIGNATE ONE OR MORE MANAGEMENT SERVICE ORGANIZATIONS TO OFFER SERVICES THROUGHOUT THE STATE.

(2) THE COMMISSION MAY USE FEDERAL GRANTS AND LOANS TO HELP SUBSIDIZE THE USE OF THE DESIGNATED MANAGEMENT SERVICE ORGANIZATIONS BY HEALTH CARE PROVIDERS.

(I) ON AND AFTER THE LATER OF JANUARY 1, 2015, OR THE DATE ESTABLISHED FOR THE IMPOSITION OF PENALTIES UNDER § 4102 OF THE FEDERAL AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009:

(1) EACH HEALTH CARE PROVIDER USING AN ELECTRONIC HEALTH RECORD THAT SEEKS PAYMENT FROM A STATE-REGULATED PAYOR SHALL USE ELECTRONIC HEALTH RECORDS THAT ARE:

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(I) CERTIFIED BY A NATIONAL CERTIFICATION ORGANIZATION DESIGNATED BY THE COMMISSION; AND

(II) CAPABLE OF CONNECTING TO AND EXCHANGING DATA WITH THE HEALTH INFORMATION EXCHANGE DESIGNATED BY THE COMMISSION UNDER SUBSECTION (A) OF THIS SECTION; AND

(2) THE INCENTIVES REQUIRED UNDER SUBSECTION (D) OF THIS SECTION MAY INCLUDE REDUCTIONS IN PAYMENTS TO A HEALTH CARE PROVIDER THAT DOES NOT USE ELECTRONIC HEALTH RECORDS THAT MEET THE REQUIREMENTS OF PARAGRAPH (1) OF THIS SUBSECTION.”.

AMENDMENT NO. 4

On page 7, strike in their entirety lines 15 through 24, inclusive, and substitute:

“(A) IN THIS SECTION, “CARRIER” HAS THE MEANING STATED IN § 19-142 OF THE HEALTH – GENERAL ARTICLE.

(B) A CARRIER SHALL PROVIDE INCENTIVES TO HEALTH CARE PROVIDERS IN ACCORDANCE WITH THE REQUIREMENTS OF TITLE 19, SUBTITLE 1, PART IV OF THE HEALTH – GENERAL ARTICLE.”.

On page 8, in line 13, strike “October” and substitute “July”.