

# SENATE BILL 744

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CF HB 706

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By: **Senator Rosapepe**

Introduced and read first time: February 6, 2009

Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **Electronic Health Records – Regulation and Reimbursement**

3 FOR the purpose of requiring the Maryland Medical Assistance Program to reimburse  
4 certain health care providers in accordance with certain provisions of this Act;  
5 requiring the Maryland Health Care Commission, in consultation with the  
6 Department of Health and Mental Hygiene and the Maryland Insurance  
7 Administration, to adopt certain regulations on or before a certain date  
8 requiring certain payors to include certain costs in a certain reimbursement  
9 structure; requiring the Commission to designate a certain health information  
10 exchange on or before a certain date; requiring the Commission to determine  
11 the appropriate level of additional reimbursement in a certain manner;  
12 providing that certain regulations shall apply to certain entities under certain  
13 circumstances; requiring the Commission, in consultation with the Department  
14 and the Administration, to adopt certain regulations that specify certain  
15 certification requirements on or before a certain date; requiring the Commission  
16 to designate a certain management service organization on or before a certain  
17 date; authorizing the Commission to use certain grants and loans in a certain  
18 manner; requiring certain health care providers to use certain electronic health  
19 records on or after a certain date; prohibiting certain payors from reimbursing  
20 certain health care providers on or after a certain date under certain  
21 circumstances; providing that certain provisions of this Act shall apply to  
22 certain entities under certain circumstances; providing that certain provisions  
23 of this Act apply to health maintenance organizations; requiring certain carriers  
24 to reimburse certain health care providers in accordance with certain provisions  
25 of this Act; requiring the Secretary of Budget and Management to ensure that  
26 the State Employee and Retiree Health and Welfare Benefits Program complies  
27 with certain provisions of this Act; and generally relating to the regulation of  
28 and reimbursement for the use of electronic health records.

29 BY repealing and reenacting, without amendments,  
30 Article – Health – General

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 1–101(a) and (c), 15–101(a) and (h), and 19–101  
2 Annotated Code of Maryland  
3 (2005 Replacement Volume and 2008 Supplement)

4 BY adding to  
5 Article – Health – General  
6 Section 15–105.2; 19–142 through 19–145 to be under the new part “Part IV.  
7 Electronic Health Records – Regulation and Reimbursement”; and  
8 19–706(ttt)  
9 Annotated Code of Maryland  
10 (2005 Replacement Volume and 2008 Supplement)

11 BY adding to  
12 Article – Insurance  
13 Section 15–132  
14 Annotated Code of Maryland  
15 (2006 Replacement Volume and 2008 Supplement)

16 BY repealing and reenacting, without amendments,  
17 Article – State Personnel and Pensions  
18 Section 2–501(a) and (b)  
19 Annotated Code of Maryland  
20 (2004 Replacement Volume and 2008 Supplement)

21 BY repealing and reenacting, with amendments,  
22 Article – State Personnel and Pensions  
23 Section 2–503(a)  
24 Annotated Code of Maryland  
25 (2004 Replacement Volume and 2008 Supplement)

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

28 **Article – Health – General**

29 1–101.

30 (a) In this article the following words have the meanings indicated.

31 (c) “Department” means the Department of Health and Mental Hygiene.

32 15–101.

33 (a) In this title the following words have the meanings indicated.

34 (h) “Program” means the Maryland Medical Assistance Program.

1 **15-105.2.**

2 **THE PROGRAM SHALL REIMBURSE HEALTH CARE PROVIDERS IN**  
3 **ACCORDANCE WITH THE REQUIREMENTS OF TITLE 19, SUBTITLE 1, PART IV OF**  
4 **THIS ARTICLE.**

5 19-101.

6 In this subtitle, "Commission" means the Maryland Health Care Commission.

7 **PART IV. ELECTRONIC HEALTH RECORDS – REGULATION AND**  
8 **REIMBURSEMENT.**

9 **19-142.**

10 (A) **IN THIS PART IV OF THIS SUBTITLE THE FOLLOWING WORDS HAVE**  
11 **THE MEANINGS INDICATED.**

12 (B) **"CARRIER" MEANS:**

13 (1) **AN INSURER;**

14 (2) **A NONPROFIT HEALTH SERVICE PLAN;**

15 (3) **A HEALTH MAINTENANCE ORGANIZATION;**

16 (4) **A DENTAL PLAN ORGANIZATION; OR**

17 (5) **ANY OTHER PERSON THAT PROVIDES HEALTH BENEFIT PLANS**  
18 **SUBJECT TO REGULATION BY THE STATE.**

19 (C) **"ELECTRONIC HEALTH RECORD" MEANS AN ELECTRONIC RECORD**  
20 **OF HEALTH-RELATED INFORMATION ON AN INDIVIDUAL THAT:**

21 (1) **INCLUDES PATIENT DEMOGRAPHIC AND CLINICAL HEALTH**  
22 **INFORMATION; AND**

23 (2) **HAS THE CAPACITY TO:**

24 (I) **PROVIDE CLINICAL DECISION SUPPORT;**

25 (II) **SUPPORT PHYSICIAN ORDER ENTRY;**

1 (III) CAPTURE AND QUERY INFORMATION RELEVANT TO  
2 HEALTH CARE QUALITY; AND

3 (IV) EXCHANGE ELECTRONIC HEALTH INFORMATION WITH  
4 AND INTEGRATE THE INFORMATION FROM OTHER SOURCES.

5 (D) (1) "HEALTH CARE PROVIDER" MEANS:

6 (I) A PERSON WHO IS LICENSED, CERTIFIED, OR  
7 OTHERWISE AUTHORIZED UNDER THE HEALTH OCCUPATIONS ARTICLE TO  
8 PROVIDE HEALTH CARE IN THE ORDINARY COURSE OF BUSINESS OR PRACTICE  
9 OF A PROFESSION OR IN AN APPROVED EDUCATION OR TRAINING PROGRAM; OR

10 (II) A FACILITY WHERE HEALTH CARE IS PROVIDED TO  
11 PATIENTS OR RECIPIENTS, INCLUDING:

12 1. A FACILITY, AS DEFINED IN § 10-101(E) OF THIS  
13 ARTICLE;

14 2. A HOSPITAL, AS DEFINED IN § 19-301 OF THIS  
15 TITLE;

16 3. A RELATED INSTITUTION, AS DEFINED IN  
17 § 19-301 OF THIS TITLE;

18 4. AN OUTPATIENT CLINIC;

19 5. A FREESTANDING MEDICAL FACILITY, AS  
20 DEFINED IN § 19-3A-01 OF THIS TITLE;

21 6. AN AMBULATORY SURGICAL FACILITY, AS  
22 DEFINED IN § 19-3B-01 OF THIS TITLE; AND

23 7. A NURSING HOME, AS DEFINED IN § 19-1401 OF  
24 THIS TITLE.

25 (2) "HEALTH CARE PROVIDER" DOES NOT INCLUDE A HEALTH  
26 MAINTENANCE ORGANIZATION AS DEFINED IN § 19-701 OF THIS TITLE.

27 (E) "HEALTH INFORMATION EXCHANGE" MEANS A STATEWIDE  
28 INFRASTRUCTURE THAT PROVIDES ORGANIZATIONAL AND TECHNICAL  
29 CAPABILITIES TO ENABLE THE ELECTRONIC EXCHANGE OF HEALTH  
30 INFORMATION BETWEEN HEALTH CARE PROVIDERS AND OTHER HEALTH  
31 SERVICES ORGANIZATIONS AUTHORIZED BY THE COMMISSION.

1           (F) **“MANAGEMENT SERVICE ORGANIZATION” MEANS AN**  
2 **ORGANIZATION THAT OFFERS MULTIPLE HOSTED ELECTRONIC HEALTH**  
3 **RECORD SOLUTIONS AND OTHER MANAGEMENT SERVICES TO MULTIPLE**  
4 **HEALTH CARE PROVIDERS.**

5           (G) **“MEDICARE” MEANS THE HEALTH INSURANCE FOR THE AGED ACT,**  
6 **TITLE XVIII OF THE SOCIAL SECURITY AMENDMENTS OF 1965, AS AMENDED.**

7           (H) **“STATE-REGULATED PAYOR” MEANS:**

8                   (1) **THE MARYLAND MEDICAL ASSISTANCE PROGRAM;**

9                   (2) **THE STATE EMPLOYEE AND RETIREE HEALTH AND WELFARE**  
10 **BENEFITS PROGRAM; AND**

11                   (3) **A CARRIER.**

12 **19-143.**

13           (A) **ON OR BEFORE OCTOBER 1, 2010, THE COMMISSION, IN**  
14 **CONSULTATION WITH THE DEPARTMENT AND THE MARYLAND INSURANCE**  
15 **ADMINISTRATION, SHALL:**

16                   (1) **ADOPT REGULATIONS THAT REQUIRE STATE-REGULATED**  
17 **PAYORS TO INCLUDE IN THEIR REIMBURSEMENT STRUCTURE FOR HEALTH**  
18 **CARE PROVIDERS THE COST OF THE ADOPTION OF ELECTRONIC HEALTH**  
19 **RECORDS BY HEALTH CARE PROVIDERS; AND**

20                   (2) **DESIGNATE A HEALTH INFORMATION EXCHANGE FOR THE**  
21 **STATE THAT:**

22                           (I) **INCORPORATES PRIVACY RULES THAT ARE CONSISTENT**  
23 **WITH EXISTING FEDERAL AND STATE LAWS AND REGULATIONS; AND**

24                           (II) **MAKES ITS SERVICES AVAILABLE TO HEALTH CARE**  
25 **PROVIDERS, STATE-REGULATED PAYORS AND OTHER HEALTH CARE SERVICES**  
26 **ORGANIZATIONS AS AUTHORIZED BY THE COMMISSION.**

27           (B) (1) **THE COMMISSION SHALL DETERMINE THE APPROPRIATE**  
28 **LEVEL OF ADDITIONAL REIMBURSEMENT TO BE REQUIRED UNDER THIS**  
29 **SECTION, TAKING INTO ACCOUNT ANY GRANTS OR LOANS THAT ARE AVAILABLE**  
30 **TO HEALTH CARE PROVIDERS FROM THE FEDERAL GOVERNMENT.**

1           **(2) THE COMMISSION MAY NOT REQUIRE ADDITIONAL**  
2 **REIMBURSEMENT UNDER THIS SECTION FOR A HOSPITAL THAT IS REGULATED**  
3 **BY THE HEALTH SERVICES COST REVIEW COMMISSION.**

4           **(C) IF FEDERAL LAW IS AMENDED TO ALLOW THE STATE TO REGULATE**  
5 **SELF-INSURED ENTITIES AND MEDICARE, REGULATIONS ADOPTED UNDER THIS**  
6 **SECTION SHALL APPLY TO REIMBURSEMENT BY SELF-INSURED ENTITIES AND**  
7 **MEDICARE.**

8 **19-144.**

9           **(A) (1) ON OR BEFORE OCTOBER 1, 2012, THE COMMISSION, IN**  
10 **CONSULTATION WITH THE DEPARTMENT AND THE MARYLAND INSURANCE**  
11 **ADMINISTRATION, SHALL ADOPT REGULATIONS THAT SPECIFY CERTIFICATION**  
12 **REQUIREMENTS FOR ELECTRONIC HEALTH RECORDS.**

13           **(2) THE COMMISSION SHALL INCLUDE IN REGULATIONS**  
14 **ADOPTED UNDER THIS SUBSECTION A REQUIREMENT THAT ELECTRONIC**  
15 **HEALTH RECORDS MUST MEET ANY STANDARDS FOR ELECTRONIC HEALTH**  
16 **RECORDS THAT ARE PROVIDED FOR IN FEDERAL LAW.**

17           **(B) (1) ON OR BEFORE OCTOBER 1, 2012, THE COMMISSION SHALL**  
18 **DESIGNATE A MANAGEMENT SERVICE ORGANIZATION TO OFFER HOSTED**  
19 **ELECTRONIC HEALTH RECORDS AND OTHER MANAGEMENT SERVICES**  
20 **THROUGHOUT THE STATE.**

21           **(2) THE COMMISSION MAY USE AVAILABLE GRANTS AND LOANS**  
22 **FROM THE FEDERAL GOVERNMENT TO HELP SUBSIDIZE THE USE OF THE**  
23 **MANAGEMENT SERVICE ORGANIZATION BY HEALTH CARE PROVIDERS.**

24 **19-145.**

25           **(A) ON OR AFTER OCTOBER 1, 2014, EVERY HEALTH CARE PROVIDER IN**  
26 **THE STATE SHALL USE ELECTRONIC HEALTH RECORDS THAT ARE:**

27           **(1) CERTIFIED IN ACCORDANCE WITH STANDARDS ADOPTED BY**  
28 **THE COMMISSION; AND**

29           **(2) HAVE INTEROPERABILITY WITH, ARE CONNECTED TO, AND**  
30 **EXCHANGING DATA WITH THE HEALTH INFORMATION EXCHANGE DESIGNATED**  
31 **BY THE COMMISSION UNDER § 19-143 OF THIS SUBTITLE.**

32           **(B) (1) ON OR AFTER OCTOBER 1, 2014, A STATE-REGULATED PAYOR**  
33 **MAY NOT REIMBURSE A HEALTH CARE PROVIDER THAT DOES NOT MEET THE**

1 REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION FOR HEALTH CARE  
2 SERVICES.

3 (2) IF FEDERAL LAW IS AMENDED TO ALLOW THE STATE TO  
4 REGULATE SELF-INSURED ENTITIES AND MEDICARE, THIS SUBSECTION SHALL  
5 APPLY TO REIMBURSEMENT BY SELF-INSURED ENTITIES AND MEDICARE.

6 (C) ON OR AFTER OCTOBER 1, 2014, A HOSPITAL THAT IS REGULATED  
7 BY THE HEALTH SERVICES COST REVIEW COMMISSION THAT DOES NOT MEET  
8 THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION MAY NOT BE  
9 REIMBURSED BY ANY PAYOR FOR HEALTH CARE SERVICES.

10 19-706.

11 (TTT) THE PROVISIONS OF § 15-132 OF THE INSURANCE ARTICLE APPLY  
12 TO HEALTH MAINTENANCE ORGANIZATIONS.

13 **Article - Insurance**

14 **15-132.**

15 (A) IN THIS SECTION, "CARRIER" MEANS:

16 (1) AN INSURER;

17 (2) A NONPROFIT HEALTH SERVICE PLAN;

18 (3) A HEALTH MAINTENANCE ORGANIZATION;

19 (4) A DENTAL PLAN ORGANIZATION; OR

20 (5) ANY OTHER PERSON THAT PROVIDES HEALTH BENEFIT PLANS  
21 SUBJECT TO REGULATION BY THE STATE.

22 (B) A CARRIER SHALL REIMBURSE HEALTH CARE PROVIDERS IN  
23 ACCORDANCE WITH THE REQUIREMENTS OF TITLE 19, SUBTITLE 1, PART IV OF  
24 THE HEALTH - GENERAL ARTICLE.

25 **Article - State Personnel and Pensions**

26 2-501.

27 (a) In this subtitle the following terms have the meanings indicated.

1 (b) "Program" means the State Employee and Retiree Health and Welfare  
2 Benefits Program.

3 2-503.

4 (a) The Secretary shall:

5 (1) adopt regulations for the administration of the Program;

6 (2) ensure that the Program complies with all federal and State laws  
7 governing employee benefit plans; [and]

8 (3) each year, recommend to the Governor the State share of the costs  
9 of the Program; **AND**

10 (4) **ENSURE THAT THE PROGRAM COMPLIES WITH TITLE 19,**  
11 **SUBTITLE 1, PART IV OF THE HEALTH - GENERAL ARTICLE.**

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
13 October 1, 2009.