

HOUSE BILL 1022

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CF SB 748

By: **Delegate Pendergrass**

Introduced and read first time: February 5, 2021

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Public Health – State Designated Exchange – Clinical Information**

3 FOR the purpose of requiring a nursing home, on request of the Maryland Department of
4 Health, to electronically submit clinical information to the State designated
5 exchange; authorizing the State designated exchange to provide certain information
6 to certain individuals and entities in a certain manner; providing that information
7 submitted under a certain provision of this Act may be combined with other data
8 maintained by the State designated exchange for a certain purpose under certain
9 circumstances; requiring an electronic health network to provide certain
10 transactions to the State designated exchange for certain purposes; prohibiting an
11 electronic health network from charging a certain fee to a health care provider of the
12 State designated exchange; requiring the State designated exchange to develop and
13 implement certain policies and procedures; authorizing the Maryland Health Care
14 Commission to adopt certain regulations; altering the purposes to which certain
15 regulations adopted by the Commission are required to limit the scope of certain
16 information; providing that certain regulations adopted by the Commission may
17 limit redisclosure of certain information and restrict certain data in relation to the
18 exchange of certain information; requiring the Department to identify and seek
19 certain funding; requiring the Commission to report to the Governor and the General
20 Assembly on or before a certain date; defining certain terms; making stylistic
21 changes; and generally relating to the State designated exchange and the sharing of
22 clinical information.

23 BY repealing and reenacting, with amendments,
24 Article – Health – General
25 Section 4–302.3
26 Annotated Code of Maryland
27 (2019 Replacement Volume and 2020 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Health – General

1
2 4–302.3.

3 (a) (1) In this section the following words have the meanings indicated.

4 (2) **“ELECTRONIC HEALTH NETWORK” MEANS AN ENTITY INVOLVED**
5 **IN THE EXCHANGE OF ELECTRONIC HEALTH CARE TRANSACTIONS BETWEEN A**
6 **PAYOR, HEALTH CARE PROVIDER, VENDOR, AND ANY OTHER ENTITY.**

7 (3) **“NURSING HOME” HAS THE MEANING STATED IN § 19–1401 OF**
8 **THIS ARTICLE.**

9 [(2)] (4) “Standard request” means a request for clinical information from
10 a health information exchange that conforms to the major standards version specified by
11 the Office of the National Coordinator for Health Information Technology.

12 [(3)] (5) “State designated exchange” means the health information
13 exchange designated by the Maryland Health Care Commission and the Health Services
14 Cost Review Commission under § 19–143 of this article.

15 (b) This section applies to:

16 (1) Except for the State designated exchange, a health information
17 exchange operating in the State; and

18 (2) A payor that:

19 (i) Holds a valid certificate of authority issued by the Maryland
20 Insurance Commissioner; and

21 (ii) Acts as, operates, or owns a health information exchange.

22 (c) An entity to which this section applies shall connect to the State designated
23 exchange in a manner consistent with applicable federal and State privacy laws.

24 (d) When a standard request for clinical information is received through the State
25 designated exchange, an entity to which this section applies shall respond to the request to
26 the extent authorized under federal and State privacy laws.

27 (e) A consent from a patient to release clinical information to a provider obtained
28 by an entity to which this section applies shall apply to information transmitted through
29 the State designated exchange or by other means.

30 (F) (1) **ON REQUEST OF THE DEPARTMENT, A NURSING HOME SHALL**

1 SUBMIT ELECTRONICALLY CLINICAL INFORMATION TO THE STATE DESIGNATED
2 EXCHANGE.

3 (2) IN ACCORDANCE WITH STATE AND FEDERAL LAW, THE STATE
4 DESIGNATED EXCHANGE MAY PROVIDE THE INFORMATION SUBMITTED UNDER
5 PARAGRAPH (1) OF THIS SUBSECTION TO:

6 (I) A HEALTH CARE PROVIDER;

7 (II) AN AUTHORIZED HEALTH INFORMATION EXCHANGE USER;

8 (III) A HEALTH INFORMATION EXCHANGE AUTHORIZED BY THE
9 MARYLAND HEALTH CARE COMMISSION;

10 (IV) A FEDERAL OFFICIAL; AND

11 (V) A STATE OFFICIAL.

12 (3) IF APPROVED BY THE MARYLAND HEALTH CARE COMMISSION,
13 THE INFORMATION SUBMITTED UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY
14 BE COMBINED WITH OTHER DATA MAINTAINED BY THE STATE DESIGNATED
15 EXCHANGE TO FACILITATE:

16 (I) A STATE HEALTH IMPROVEMENT PROGRAM;

17 (II) MITIGATION OF A PUBLIC HEALTH EMERGENCY; AND

18 (III) IMPROVEMENT OF PATIENT SAFETY.

19 (G) (1) AN ELECTRONIC HEALTH NETWORK SHALL PROVIDE
20 ADMINISTRATIVE TRANSACTIONS TO THE STATE DESIGNATED EXCHANGE FOR
21 PUBLIC HEALTH AND CLINICAL PURPOSES.

22 (2) AN ELECTRONIC HEALTH NETWORK MAY NOT CHARGE A FEE TO A
23 HEALTH CARE PROVIDER OR TO THE STATE DESIGNATED EXCHANGE FOR
24 PROVIDING THE INFORMATION AS REQUIRED UNDER PARAGRAPH (1) OF THIS
25 SUBSECTION.

26 (3) THE STATE DESIGNATED EXCHANGE SHALL DEVELOP AND
27 IMPLEMENT POLICIES AND PROCEDURES TO IMPLEMENT PARAGRAPH (1) OF THIS
28 SUBSECTION THAT ARE CONSISTENT WITH REGULATIONS ADOPTED BY THE
29 MARYLAND HEALTH CARE COMMISSION.

1 **[(f)] (H)** The Maryland Health Care Commission:

2 (1) May adopt regulations for implementing the connectivity to the State
3 designated exchange required under this section; and

4 (2) Shall seek, through any regulations adopted under item (1) of this
5 subsection, to promote technology standards and formats that conform to those specified by
6 the Office of the National Coordinator for Health Information Technology.

7 **[(g)] (I)** (1) The Maryland Health Care Commission may adopt regulations
8 **[specifying] THAT:**

9 **(I) SPECIFY** the scope of clinical information to be exchanged under
10 this section; **AND**

11 **(II) PROVIDE FOR A UNIFORM, GRADUAL IMPLEMENTATION OF**
12 **THE EXCHANGE OF CLINICAL INFORMATION UNDER THIS SECTION.**

13 (2) Any regulations adopted under paragraph (1) of this subsection shall
14 limit the scope of the clinical information to purposes that **[promote]:**

15 (i) **[Improved] IMPROVE** access to clinical records by treating
16 clinicians; or

17 (ii) **[Uses] PROMOTE USES** of the State designated exchange
18 important to public health agencies.

19 **(3) REGULATIONS ADOPTED UNDER PARAGRAPH (1) OF THIS**
20 **SUBSECTION MAY:**

21 **(I) LIMIT REDISCLOSURE OF FINANCIAL INFORMATION,**
22 **INCLUDING BILLED OR PAID AMOUNTS AVAILABLE IN ELECTRONIC CLAIMS**
23 **TRANSACTIONS;**

24 **(II) RESTRICT DATA OF PATIENTS WHO HAVE OPTED OUT OF**
25 **RECORDS SHARING THROUGH THE STATE DESIGNATED EXCHANGE OR A HEALTH**
26 **INFORMATION EXCHANGE AUTHORIZED BY THE MARYLAND HEALTH CARE**
27 **COMMISSION; AND**

28 **(III) RESTRICT DATA FROM HEALTH CARE PROVIDERS THAT**
29 **POSSESS SENSITIVE HEALTH CARE INFORMATION.**

30 **[(h)] (J)** This section does not:

31 (1) Require an entity to which this section applies to collect clinical

1 information or obtain any authorizations, not otherwise required by federal or State law,
2 relating to information to be sent or received through the State designated exchange;

3 (2) Prohibit an entity to which this section applies from directly receiving
4 or sending information to providers or subscribers outside of the State designated
5 exchange; or

6 (3) Prohibit an entity to which this section applies from connecting and
7 interoperating with the State designated exchange in a manner and scope beyond that
8 required under this section.

9 SECTION 2. AND BE IT FURTHER ENACTED, That:

10 (a) The Maryland Department of Health shall identify and seek appropriate
11 funding to implement Section 1 of this Act.

12 (b) On or before January 1, 2022, the Maryland Health Care Commission shall
13 report to the Governor and, in accordance with § 2-1257 of the State Government Article,
14 the General Assembly on:

15 (1) the availability of funding to implement Section 1 of this Act; and

16 (2) the sustainability of the technical infrastructure required to implement
17 Section 1 of this Act.

18 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
19 1, 2021.