

SENATE BILL 748

J1, J3

11r2363
CF HB 1022

By: **Senator Beidle**

Introduced and read first time: February 5, 2021

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 27, 2021

CHAPTER _____

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 for a certain purpose; authorizing the State designated exchange to provide
6 certain information to certain individuals and entities in a certain manner; providing
7 that information submitted under a certain provision of this Act may be combined
8 with other data maintained by the State designated exchange for a certain purpose
9 under certain circumstances; providing that certain information submitted by a
10 nursing home may only be used for a certain purpose and may not be used for any
11 other purpose; requiring an electronic health network to provide certain transactions
12 to the State designated exchange for certain purposes; prohibiting an electronic
13 health network from charging a certain fee to a health care provider, health care
14 payor, ~~of or~~ the State designated exchange; requiring the State designated exchange
15 to develop and implement certain policies and procedures; authorizing the Maryland
16 Health Care Commission to adopt certain regulations; altering the purposes to which
17 certain regulations adopted by the Commission are required to limit the scope of
18 certain information; ~~providing~~ requiring that certain regulations adopted by the
19 Commission ~~may~~ limit redisclosure of certain information and restrict certain data
20 in relation to the exchange of certain information; requiring the Department to
21 identify and seek certain funding; requiring the Commission to report to the
22 Governor and the General Assembly on or before a certain date; defining certain
23 terms; making stylistic changes; and generally relating to the State designated
24 exchange and the sharing of clinical information.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY repealing and reenacting, with amendments,
 2 Article – Health – General
 3 Section 4–302.3
 4 Annotated Code of Maryland
 5 (2019 Replacement Volume and 2020 Supplement)

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

8 **Article – Health – General**

9 4–302.3.

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

11 **(2) “ELECTRONIC HEALTH CARE TRANSACTIONS” MEANS HEALTH**
 12 **CARE TRANSACTIONS THAT HAVE BEEN APPROVED BY A NATIONALLY RECOGNIZED**
 13 **HEALTH CARE STANDARDS DEVELOPMENT ORGANIZATION TO SUPPORT HEALTH**
 14 **CARE INFORMATICS, INFORMATION EXCHANGE, SYSTEMS INTEGRATION, AND**
 15 **OTHER HEALTH CARE APPLICATIONS.**

16 ~~(2)~~ **(3) “ELECTRONIC HEALTH NETWORK” MEANS AN ENTITY**
 17 **INVOLVED;**

18 **(I) INVOLVED IN THE EXCHANGE OF ELECTRONIC HEALTH**
 19 **CARE TRANSACTIONS BETWEEN A PAYOR, HEALTH CARE PROVIDER, VENDOR, AND**
 20 **ANY OTHER ENTITY; AND**

21 **(II) CERTIFIED BY THE MARYLAND HEALTH CARE**
 22 **COMMISSION.**

23 ~~(3)~~ **(4) “NURSING HOME” HAS THE MEANING STATED IN § 19–1401**
 24 **OF THIS ARTICLE.**

25 **[(2)]** ~~(4)~~ **(5) “Standard request” means a request for clinical information from**
 26 **a health information exchange that conforms to the major standards version specified by**
 27 **the Office of the National Coordinator for Health Information Technology.**

28 **[(3)]** ~~(5)~~ **(6) “State designated exchange” means the health information**
 29 **exchange designated by the Maryland Health Care Commission and the Health Services**
 30 **Cost Review Commission under § 19–143 of this article.**

31 (b) This section applies to:

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

1 (2) A payor that:

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

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

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

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

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

13 **(F) (1) ON REQUEST OF THE DEPARTMENT, A NURSING HOME SHALL**
14 **SUBMIT ELECTRONICALLY CLINICAL INFORMATION TO THE STATE DESIGNATED**
15 **EXCHANGE TO FACILITATE THE OBJECTIVES STATED IN PARAGRAPH (3) OF THIS**
16 **SUBSECTION.**

17 **(2) IN ACCORDANCE WITH STATE AND FEDERAL LAW AND TO**
18 **FACILITATE THE OBJECTIVES STATED IN PARAGRAPH (3) OF THIS SUBSECTION, THE**
19 **STATE DESIGNATED EXCHANGE MAY PROVIDE THE INFORMATION SUBMITTED**
20 **UNDER PARAGRAPH (1) OF THIS SUBSECTION TO:**

21 **(I) A HEALTH CARE PROVIDER;**

22 **(II) AN AUTHORIZED HEALTH INFORMATION EXCHANGE USER;**

23 **(III) A HEALTH INFORMATION EXCHANGE AUTHORIZED BY THE**
24 **MARYLAND HEALTH CARE COMMISSION;**

25 **(IV) A FEDERAL OFFICIAL; AND**

26 **(V) A STATE OFFICIAL.**

27 **(3) (1) IF APPROVED BY THE MARYLAND HEALTH CARE**
28 **COMMISSION, THE INFORMATION SUBMITTED UNDER PARAGRAPH (1) OF THIS**
29 **SUBSECTION MAY BE COMBINED WITH OTHER DATA MAINTAINED BY THE STATE**
30 **DESIGNATED EXCHANGE TO FACILITATE:**

- 1 ~~(F)~~ 1. **A STATE HEALTH IMPROVEMENT PROGRAM;**
- 2 ~~(H)~~ 2. **MITIGATION OF A PUBLIC HEALTH EMERGENCY; AND**
- 3 ~~(H)~~ 3. **IMPROVEMENT OF PATIENT SAFETY.**

4 **(II) THE INFORMATION SUBMITTED BY A NURSING HOME**
 5 **UNDER PARAGRAPH (1) OF THIS SUBSECTION MAY BE USED ONLY TO FACILITATE**
 6 **THE OBJECTIVES STATED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH AND MAY NOT**
 7 **BE USED FOR ANY OTHER PURPOSE, INCLUDING LICENSING AND CERTIFICATION.**

8 **(G) (1) AN ELECTRONIC HEALTH NETWORK SHALL PROVIDE**
 9 **~~ADMINISTRATIVE~~ ELECTRONIC HEALTH CARE TRANSACTIONS TO THE STATE**
 10 **DESIGNATED EXCHANGE FOR THE FOLLOWING PUBLIC HEALTH AND CLINICAL**
 11 **PURPOSES:**

- 12 **(I) A STATE HEALTH IMPROVEMENT PROGRAM;**
- 13 **(II) MITIGATION OF A PUBLIC HEALTH EMERGENCY; AND**
- 14 **(III) IMPROVEMENT OF PATIENT SAFETY.**

15 **(2) AN ELECTRONIC HEALTH NETWORK MAY NOT CHARGE A FEE TO A**
 16 **HEALTH CARE PROVIDER, HEALTH CARE PAYOR, OR TO THE STATE DESIGNATED**
 17 **EXCHANGE FOR PROVIDING THE INFORMATION AS REQUIRED UNDER PARAGRAPH**
 18 **(1) OF THIS SUBSECTION.**

19 **(3) THE STATE DESIGNATED EXCHANGE SHALL DEVELOP AND**
 20 **IMPLEMENT POLICIES AND PROCEDURES TO IMPLEMENT PARAGRAPH (1) OF THIS**
 21 **SUBSECTION THAT ARE CONSISTENT WITH REGULATIONS ADOPTED BY THE**
 22 **MARYLAND HEALTH CARE COMMISSION.**

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

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

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

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

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

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

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

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

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

11 **(3) REGULATIONS ADOPTED UNDER PARAGRAPH (1) OF THIS**
12 **SUBSECTION ~~MAY~~ SHALL:**

13 **(I) LIMIT REDISCLOSURE OF FINANCIAL INFORMATION,**
14 **INCLUDING BILLED OR PAID AMOUNTS AVAILABLE IN ELECTRONIC CLAIMS**
15 **TRANSACTIONS;**

16 **(II) RESTRICT DATA OF PATIENTS WHO HAVE OPTED OUT OF**
17 **RECORDS SHARING THROUGH THE STATE DESIGNATED EXCHANGE OR A HEALTH**
18 **INFORMATION EXCHANGE AUTHORIZED BY THE MARYLAND HEALTH CARE**
19 **COMMISSION; AND**

20 **(III) RESTRICT DATA FROM HEALTH CARE PROVIDERS THAT**
21 **POSSESS SENSITIVE HEALTH CARE INFORMATION.**

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

23 (1) Require an entity to which this section applies to collect clinical
24 information or obtain any authorizations, not otherwise required by federal or State law,
25 relating to information to be sent or received through the State designated exchange;

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

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

32 **SECTION 2. AND BE IT FURTHER ENACTED, That:**

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

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

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

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

9 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
10 1, 2021.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.