

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 748

(Senator Beidle)

Finance

Health and Government Operations

Public Health – State Designated Exchange – Clinical Information

This bill requires a nursing home, on request of the Maryland Department of Health (MDH), to electronically submit clinical information to the State-designated exchange. The exchange may provide the information to specified entities. If approved by the Maryland Health Care Commission (MHCC), the information may be combined with other data maintained by the exchange to facilitate (1) a State health improvement program; (2) mitigation of a public health emergency; and (3) improvement of patient safety. The information may not be used for any other purpose, including licensing and certification. The bill requires an “electronic health network” (EHN) to provide specified “electronic health care transactions” and prohibits an EHN from charging a fee for such transactions. Uncodified language requires MDH to identify and seek appropriate funding to implement the bill. By January 1, 2022, MHCC must report to the Governor and the General Assembly on the availability of funding and the sustainability of the technical infrastructure required to implement the bill. **The bill takes effect July 1, 2021.**

Fiscal Summary

State Effect: MDH can *identify and seek* appropriate funding within existing budgeted resources. Expenditures (likely general and/or federal funds) increase beginning as early as FY 2022 to implement the bill’s requirements. To the extent nursing home costs increase under the bill, Medicaid expenditures (50% general funds, 50% federal funds) and federal matching revenues may increase, as discussed below.

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: “Electronic health care transactions” means health care transactions that have been approved by a nationally recognized health care standards development organization to support health care informatics, information exchange, systems integration, and other health care applications.

“Electronic health network” means an entity (1) involved in the exchange of electronic health care transactions between a payor, health care provider, vendor, and any other entity; and (2) certified by MHCC.

In accordance with State and federal law, the exchange may provide the clinical information submitted by a nursing home to (1) a health care provider; (2) an authorized health information exchange user; (3) a health information exchange (HIE) authorized by MHCC; (4) a federal official; (5) and a State official.

An EHN must provide electronic health care transactions to the exchange for the following public health and clinical purposes: (1) a State health improvement program; (2) mitigation of a public health emergency; and (3) improvement of patient safety. An EHN may not charge a fee to a health care provider, health care payor, or to the State-designated exchange for providing the required information.

The exchange must develop and implement policies and procedures that are consistent with regulations adopted by MHCC. The adopted regulations must provide for a uniform, gradual implementation of the exchange of clinical information. Regulations must (1) limit redisclosure of financial information, including billed or paid amounts available in electronic claims transactions; (2) restrict data of patients who have opted out of records sharing through the exchange or an HIE authorized by MHCC; and (3) restrict data from health care providers that possess sensitive health care information.

Current Law: In general, a nursing home is a facility that offers nonacute inpatient care to patients suffering from a disease, chronic illness, condition, disability of advanced age, or terminal disease requiring maximal nursing care without continuous hospital services and who require medical services and nursing services rendered by or under the supervision of a licensed nurse together with convalescent, restorative, or rehabilitative services.

MHCC designated the Chesapeake Regional Information System for our Patients (CRISP) as the statewide HIE in 2009, and the infrastructure became operational in 2010. An HIE allows clinical information to move electronically among disparate health information systems. CRISP offers tools aimed at improving the facilitation of care for the region’s health care providers. Consumers can opt out of having their information included in an HIE.

State Fiscal Effect: MDH is required to identify and seek appropriate funding to implement the bill's requirements and report to the Governor and the General Assembly. This can be handled with existing budgeted resources.

Depending on the details of the regulations adopted by MHCC and the funding source(s) identified by MDH, MDH expenditures (likely general and/or federal funds) increase beginning as early as fiscal 2022 to implement the bill, including linking nursing homes with CRISP. Federal emergency funds provided to the State and to nursing homes for the COVID-19 public health emergency may be available for this purpose.

To the extent that expenditures increase significantly for nursing homes under the bill, Medicaid provider rates may increase by an indeterminate amount (50% general funds, 50% federal funds) beginning as early as fiscal 2022 to reimburse for increased costs. Federal fund revenues increase accordingly.

Small Business Effect: Under the bill, small business nursing homes, on the request of MDH, must electronically submit clinical information to the State-designated exchange. In general, nursing homes do not currently use CRISP, and they must establish a process to electronically submit such information. MDH advises that it is unclear if small business nursing homes have the ability to connect to CRISP or what the cost to each facility may be. To the extent these costs are incurred by nursing homes (and not by another potential source of funding to be identified under the bill), expenditures for small business nursing homes increase.

Additional Comments: According to CRISP, nursing home connectivity to the HIE has been hindered due to multiple factors, including electronic health record capabilities, resource concerns, and competing priorities. Connection to the HIE could provide public health support for nursing homes for real-time monitoring, public health reporting, safer transitions of care, enhanced hospital coordination, and targeted interventions for high-needs residents.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 1022 (Delegate Pendergrass) - Health and Government Operations.

Information Source(s): Maryland Department of Health; Department of Legislative Services

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