

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

Senate Bill 648

(Senator Rosapepe)

Finance

Health and Government Operations

Electronic Health Networks and Electronic Medical Records - Nursing Homes -
Release of Records

This bill authorizes a nursing home that contracts with or uses an electronic health network (EHN) or electronic medical record (EMR) vendor to direct the vendor to release patient medical records or electronic health care transactions to a “business associate” of the nursing home. The bill includes requirements for EHN or EMR vendors related to release this information. **The bill takes effect July 1, 2023.**

Fiscal Summary

State Effect: The bill does not directly affect governmental operations or finances.

Local Effect: The bill does not directly affect local government operations or finances.

Small Business Effect: Minimal.

Analysis

Bill Summary: An EHN or EMR vendor releasing patient medical records or electronic health care transactions under the bill:

- must release the records or transactions in an electronic format that conforms to certain specifications;
- must make the records or transactions available on a regular basis and release the information in a timely manner to support patient care and monitoring; and
- may not restrict, limit, or charge a fee for the release of the records or transactions.

Current Law:

Business Associate

Under federal regulations (45 CFR § 160.103), “business associate” includes (1) a health information organization, electronic prescribing gateway, or other person that provides data transmission services with respect to protected health information to a covered entity; (2) a person that offers a personal health record to one or more individuals on behalf of the covered entity; and (3) a subcontractor that creates, receives, maintains, or transmits protected health information on behalf of the business associate.

Electronic Sharing of Health Information

The Maryland Health Care Commission (MHCC) designated the Chesapeake Regional Information System for Our Patients (CRISP) as the statewide health information exchange (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. Pursuant to Chapters 790 and 791 of 2021, a nursing home, on request of the Maryland Department of Health, must electronically submit clinical information to CRISP.

An EHN is 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. Electronic health care transactions are 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.

An EHN must provide electronic health care transactions to CRISP 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 CRISP for providing the required information.

Nationally, the electronic transmission and sharing of health information is governed by the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA). HIPAA requires the U.S. Secretary of Health and Human Services to establish standards for electronic health transactions, including claims, enrollment, eligibility, payment, and coordination of benefits. These standards also must address the security of electronic health information systems.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 786 (Delegate Guzzone, *et al.*) - Health and Government Operations.

Information Source(s): Maryland Department of Health; U.S. Department of Health and Human Services; Department of Legislative Services

Fiscal Note History: First Reader - February 19, 2023
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