

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 678
Finance

(Senator Rosapepe)

Electronic Health Networks and Electronic Medical Record Vendors of Nursing
Homes - Release of Records - Enforcement

This bill authorizes any person to bring an action for damages and/or injunctive relief and for attorney's fees against any person in violation of specified nursing home electronic health network (EHN) or electronic medical record (EMR) vendor requirements. A person may bring an action whether the person interacted directly or indirectly with the person in violation. The Office of Attorney General (OAG) may enforce nursing home EHN or EMR vendor requirements.

Fiscal Summary

State Effect: OAG can implement the bill's provisions using existing budgeted resources. Any impact on the Judiciary as a result of the new civil cause of action cannot be reliably estimated but is likely minimal. Revenues are not affected.

Local Effect: The bill does not materially affect governmental operations or finances.

Small Business Effect: Potential meaningful.

Analysis

Current Law: If a nursing home contracts with or uses an EHN or EMR vendor, the nursing home may direct the vendor to release patient medical records or electronic health care transactions to a business associate of the nursing home.

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.

An EHN or EMR vendor releasing patient medical records or electronic health care transactions:

- 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.

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.

Small Business Effect: The bill authorizes any person to bring an action for damages and/or injunctive relief and for attorney's fees against an EHN, EMR vendor, or specified business associates. Small business EHNs, EMR vendors, or business associates are therefore subject to legal action under the bill.

Additional Information

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

Designated Cross File: HB 812 (Delegate Guzzone, *et al.*) - Health and Government Operations.

Information Source(s): Office of the Attorney General; Judiciary (Administrative Office of the Courts); Maryland Department of Health; Department of Legislative Services

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