

# **SB748 - HIE Infrastructure.pdf**

Uploaded by: Behm, Craig

Position: FAV



## SB748: Public Health – State Designated Exchange – Clinical Information

**Position: Support**

**Submitted By: Craig Behm, Executive Director**

### Background

CRISP appreciates this opportunity to provide comments to Senate Bill 748. As Maryland’s State-Designated Health Information Exchange (HIE), CRISP’s vision is to advance health and wellness by deploying health information technology solutions adopted through cooperation and collaboration. Robust data feeds are essential to fulfilling that vision, therefore we ask for a favorable report on Senate Bill 748.

Maryland’s HIE is accessed by thousands of providers each day. Using CRISP, providers see information such as the prescribing history of controlled dangerous substances through the Prescription Drug Monitoring Program (PDMP), real-time hospital visits, clinical details from insurance claims, other members of a patient’s care team, laboratory results, diagnostic quality images, and care alerts. A summary of CRISP utilization is provided in the table to the right.

While there are 1,098 organizations (such as hospitals and clinics) sending either real-time visits or clinical documents through automatic electronic health record (EHR) connections, this represents a fraction of the health care providers in the state. Additional connectivity is time-consuming and expensive. The most efficient way to share data is to leverage existing data feeds; this is the approach Maryland took with other data types and the approach in this bill.

HIE Category	Count
<b>CRISP Participating Organizations:</b>	
with Clinical Data Feeds	1,098
using the Clinical Portal or App	3,788
receiving Encounter Notifications	1,237
accessing PDMP	7,030
<b>Weekly Provider Utilization (week ending 2/21):</b>	
Secure Portal or App Queries	160,520
Image Views	3,835
InContext Alerts returned	1,300,000
InContext PDMP Data returned	261,873
Encounter Notifications sent	3,100,000
Report accesses	4,260

### Benefits

Secure, appropriate, workflow-friendly access to patient information is necessary for quality care. CRISP is successful at pushing data into workflows so an emergency room clinician can see a patient’s prior hospital visits or a prescriber can see all controlled dangerous substances dispensed to the patient. Both of these use cases, and many others, are only possible because healthcare industry partners share the information with the State-Designated HIE. Neither hospitals nor pharmacies are compensated for this work; they do for the health and safety of Marylanders.

Senate Bill 748 leverages these same principles and technologies to give providers more information for patient care. This happens in two distinct ways:

- 1) Skilled Nursing Facilities will have the data submission infrastructure used for COVID-19 support efforts extended beyond emergency use. They will have an on-going, operational process for consolidated reporting so the Maryland Department of Health and industry stakeholders can develop programs to enhance long-term and post-acute care.



- 2) Ambulatory clinics, urgent care centers, and other practices will reuse data being sent through Electronic Health Networks (EHNs) to share care team and visit information through CRISP to other providers.

The result of these two enhancements will be widespread connectivity to the HIE with actionable data. Working with partners, the provisions of this bill will allow the HIE to:

- **Expand statewide Public Health capabilities for current and future needs.** CRISP provided extensive support to the Maryland Department of Health through COVID-19 reporting, contact tracing, and sharing data with providers; additional connectivity with nursing homes and practices would add speed and depth to reporting and an expansion of clinical support. In particular, Senate Bill 748 would help close a gap in understanding in immediate trends in urgent care visits, such as existed during the start of the COVID-19 pandemic.
- **Provide a more comprehensive view into a patient's care team.** When a patient is discharged from a hospital, staff will know of the patient's community relationships which will enable the most appropriate follow-up care. Likewise, the lack of care team may indicate the need for a referral to a primary care practice.
- **Reduce the burden for providers sharing information with the HIE and other partners.** HIE users must share patient rosters to enable privacy controls or to receive care coordination messages, and many EHR vendors make it difficult to extract this information. EHNs already share encounter data at-scale so CRISP will use this information instead of manually generated files.
- **Show providers and policymakers summary data regarding non-hospital services.** The Maryland Model uniquely holds hospitals accountable for the total cost of care for patients, yet without comprehensive views into non-hospital care, population health leaders and policymakers lack information as they seek to design optimal strategies.
- **Enhance system efficiency by leveraging existing connections.** Working with providers one-on-one to build new connections is expensive, particularly where vendors create blockages; EHNs are already integrated into EHRs and can copy the HIE on transactions just like laboratories do with results and pharmacies with controlled dangerous substance data.

## Technical Considerations

Clinics pay a fee to EHNs to send claims information from their EHR to the payer. These EHNs process millions of transactions across dozens of payers each year. The proposed legislation requires EHNs to copy the State-Designated HIE on these transactions, much like copying a new recipient on an email. This process is similar to the process labs take when copying CRISP on results back to the ordering providers. Labs are not compensated for contributing data to the State's HIE on behalf of their customers, just as EHNs would not be. The same is true for pharmacies submitting data to the PDMP – which is a more burdensome process. CRISP and the Maryland Health Care Commission completed a study demonstrating this as a viable strategy to accomplish the shared goals of this bill at a broad scale.

A final note is regarding the interests of the EHNs, which may pursue opportunities to sell data and would not like the State-Designated HIE to become competition. The Maryland Health Care Commission regulates the State-Designated HIE which is already prohibited strictly from selling the data it receives. MHCC will further regulate use of these data feeds to just the important public health purposes they are intended.

Maryland invested in a statewide infrastructure for data exchange to safely share actionable data across the healthcare industry. Senate Bill 748 is an essential step forward to accomplish that vision.

# **SB748BeidleTestimony.pdf**

Uploaded by: Beidle, Pamela

Position: FAV



THE SENATE OF MARYLAND  
ANNAPOLIS, MARYLAND 21401

March 3, 2021

SB 748

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

Chairman Kelley, Vice Chair Feldman and Members of the Committee;

Thank you for the opportunity to present SB0748, Public Health – State Designated Exchange – Clinical Information.

SB748 requires information sharing from existing Electronic Health Networks (EHNs) to the State-Designated Health Information Exchange (HIE). This will allow caregivers and public health officials access to patient information such as where the last doctor's visit occurred, whether the patient had a telehealth encounter, and recent medication changes in a nursing home, information critical to provide better individual care and population health.

The HIE will leverage a decade of strategic investments and partnerships to use the new EHN connectivity to accomplish the following:

- **Expand statewide Public Health capabilities for current and future needs**
  - CRISP provided extensive support to the Maryland Department of Health through COVID-19 reporting, contact tracing, and sharing data with providers; additional connectivity with nursing homes would add speed and depth to reporting and full EHN connectivity allows for an expansion of clinical support
- **Provide a more comprehensive view into a patient's care team**
  - When a patient is discharged from a hospital, the discharge plan and follow-up care can occur with the best provider or the lack of care team may indicate the need for referral to a primary care practice
- **Reduce the burden for providers sharing information with the HIE and other partners**
  - HIE users must share patient rosters to enable privacy controls, and many Electronic Health Record (EHR) vendors make it difficult to extract this information; EHNs already share encounter data at-scale
- **Show providers and policymakers summary data regarding non-hospital services**
  - The Maryland Model uniquely holds hospitals accountable for the total cost of care for patients, yet without comprehensive views into non-hospital care (for example urgent care visits and telehealth) population health leaders and policymakers do not have all of the information to design optimal strategies
- **Enhance system efficiency by leveraging existing connections**
  - Working with providers one-on-one to build new connections is expensive, particularly where vendors create blockages; EHNs are already integrated into EHRs and can copy

the HIE on transactions just like laboratories do with results and pharmacies with controlled dangerous substance data

**Potential Concerns**

All potential changes risk unforeseen problems. To that end, the following concerns have been identified and planned for:

- Patient and physician privacy will be supported through existing opt-out capabilities and Maryland Health Care Commission (MHCC) regulations
- The cost of connecting these systems is minimal – EHNs already send millions of messages per week and are simply adding the HIE as a receiver, and the HIE proved it can process the volume and type of messages through a demonstration project with the MHCC

Thank you for your consideration of SB 748 and I urge the committee to move this bill with a favorable report.

**4a - SB748 - HSCRC - LoS (1).pdf**

Uploaded by: Bennardi, Maryland Department of Health /Office of Governmen

Position: FAV



March 3, 2021

The Honorable Delores G. Kelley  
Chair, Senate Finance Committee  
3 East, Miller Senate Office Building  
Annapolis, MD 21401

**RE: Senate Bill 748 – Public Health – State Designated Exchange – Clinical Information – Letter of Support**

Dear Chair Kelley and Committee Members:

The Health Services Cost Review Commission (HSCRC) submits this letter of support for Senate Bill 748 (SB 748) titled, “Public Health – State Designated Exchange – Clinical Information.” SB 748 will require nursing homes and electronic health networks to share information with Maryland’s state-designated health information exchange (HIE) for the purpose of improving health outcomes and efficiency in the Maryland healthcare system during the COVID-19 pandemic and beyond.

Maryland’s state-designated health information exchange, Chesapeake Regional Information System for our Patients (CRISP), is a crucial part of the State’s unique healthcare system and ongoing healthcare reform efforts. CRISP supports data exchange between healthcare providers so that providers have the information they need to treat patients appropriately and use healthcare resources wisely. For example, providers that use CRISP’s alert notification tool receive alerts when their patient is admitted to the hospital or emergency department, allowing providers to better coordinate care for those patients. HSCRC staff leverage CRISP’s data and analytic tools to measure performance outcomes for key health reform initiatives and ensure that providers are working together to meet the cost and quality goals outlined in Maryland’s Total Cost of Care (TCOC) Model contract with the federal Centers for Medicare and Medicaid Services (CMS). During the COVID-19 pandemic, CRISP has provided crucial data to state policy makers on the pandemic and available hospital capacity.

By requiring nursing homes to submit clinical information to the state-designated health exchange, SB 748 ensures that providers across the continuum of care will have access to nursing home patient data. Using the state-designated HIE, nursing homes, hospitals, and other providers treating these patients will be able to better coordinate care as a patient moves from one site of care to another. HSCRC’s policies seek to improve patient care during these care transitions. Improvement in care transitions will reduce avoidable hospital utilization (and health system costs) and improve patient experience. Reduced

**Adam Kane, Esq**  
Chairman

**Joseph Antos, PhD**  
Vice-Chairman

**Victoria W. Bayless**

**Stacia Cohen, RN, MBA**

**John M. Colmers**

**James N. Elliott, MD**

**Sam Malhotra**

**Katie Wunderlich**  
Executive Director

**Allan Pack**  
Director  
Population-Based Methodologies

**Tequila Terry**  
Director  
Payment Reform & Provider Alignment

**Gerard J. Schmith**  
Director  
Revenue & Regulation Compliance

**William Henderson**  
Director  
Medical Economics & Data Analytics

**The Health Services Cost Review Commission is an independent agency of the State of Maryland**

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Medicare spending is an important metric in Maryland's TCOC Model contract with CMS. The nursing home data will help state policy makers improve patient health and respond to public health emergencies (like COVID-19) that impact nursing homes.

HSCRC believes SB 748 will enhance CRISP's ability to support collaboration and coordination within the healthcare system as the State continues to address the COVID-19 pandemic and work to meet the goals of the TCOC Model. If you have any questions or if we may provide you with any further information, please do not hesitate to contact me at 443.462.8632 or [tequila.terry1@maryland.gov](mailto:tequila.terry1@maryland.gov) or Megan Renfrew, Associate Director of External Affairs, at 410-382-3855 or [megan.renfrew1@maryland.gov](mailto:megan.renfrew1@maryland.gov).

Sincerely,

A handwritten signature in cursive script that reads "Tequila Terry".

Tequila Terry  
Principal Deputy Director

**4b - SB 748 - MHCC - LOS.pdf**

Uploaded by: Bennardi, Maryland Department of Health /Office of Governmen

Position: FAV

STATE OF MARYLAND

Andrew N. Pollak  
CHAIR



Ben Steffen  
EXECUTIVE DIRECTOR

**MARYLAND  
COMMISSION**

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**HEALTH CARE**

BALTIMORE, MARYLAND 21215

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**2021 SESSION  
POSITION PAPER**

**BILL NO: SB 748**  
**COMMITTEE: Finance Committee**  
**POSITION: SUPPORT**

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**TITLE: Public Health – State Designated Exchange – Clinical Information**

**BILL ANALYSIS**

Senate Bill 748 (“SB 748”) requires a nursing home to electronically submit clinical health care information to the State designated health information exchange, Chesapeake Regional Informational System for our Patients (CRISP). The bill authorizes CRISP to provide health information to health care providers, health information exchange users, and state and federal officials to facilitate a state health improvement program, mitigate a public health emergency, and to improve patient safety. SB 748 also provides for the protection of health information by limiting redisclosure of financial transactions and medical billing, restricts access to patient data for patients who have opted out of record sharing, and restricts data from health care providers that possess sensitive health care information.

**POSITION AND RATIONALE**

The Maryland Health Care Commission (the “Commission”) supports SB 748.

CRISP, Maryland’s state designated health information exchange, plays a critical role in our health care system by facilitating the electronic exchange of health information among health care providers. The exchange of health information electronically allows doctors, nurses, pharmacists, other health care providers and patients to appropriately access and securely share a patient’s vital medical information improving the speed, quality, safety, and cost of patient care. The exchange of health information allows for the effective coordination of health care which leads to better efficiencies and patient outcomes.

CRISP has the infrastructure through the collection and electronic exchange of health information to overcome traditional challenges of caring for patients across organizations, such

*Note: The Maryland Health Care Commission is an independent State agency, and the position of the Commission may differ from the position of the Maryland Department of Health.*

as delayed reporting, incomplete information, repeat testing, and resource limitations, through a coordinated approach and information sharing. CRISP's Query Portal allows physicians and support staff to query patients they are treating to view clinical information from acute care hospitals in Maryland and the District of Columbia.

Nursing homes are an important component of our health care system and requiring them to report health information to CRISP will serve to provide improved coordination of care. Health care providers for this population will have access to the nursing home health records and information across organizations giving them a comprehensive picture of the patient which can result in better accuracy of demographic and clinical information to support clinical care. The access to health information across health providers and organizations would also allow nursing homes to improve care coordination and as well as provide public health support for nursing homes for real-time monitoring of the facility, public health reporting requirements, safer transitions of care, enhanced hospital coordination, and targeted interventions for high-needs residents.

SB 748 also allows CRISP to combine other data maintained by the State to facilitate a state health improvement program, mitigate a public health emergency, and improve patient safety. Additionally, the bill provides consumer patient protections by allowing patients to opt out of the health information exchange, limiting the redisclosure of financial information, and restricting data from health care providers that possess sensitive health information.

SB 748 aligns with the objectives of the work of the state designated exchange and as well as the overall health system goals around the exchange of health information and health outcomes.

For these reasons the Commission asks for a favorable report on SB 748.

# **SB 748- State Designated Health Exchange Clinical**

Uploaded by: Dorrien, Erin

Position: FAV



Maryland  
Hospital Association

March 3, 2021

To: The Honorable Delores G. Kelley, Chair, Senate Finance Committee

Re: Letter of Support - Senate Bill 748 - Public Health- State Designated Exchange - Clinical Information

Dear Chair Kelley:

On behalf of the Maryland Hospital Association's (MHA) 60 member hospitals and health systems, we appreciate the opportunity to comment on Senate Bill 748. Since 1977 Maryland hospitals have worked under a unique rate-setting and payment system under an agreement with the Centers for Medicare & Medicaid Services (CMS). To succeed under the Total Cost of Care Model (Model), Maryland must meet specific savings targets in those covered by Medicare both inside and outside of the hospitals and achieve certain population health goals. Success requires the work of not just hospitals, but all health care professionals, payers, and the state government.

SB 748 requires electronic health networks (EHN), or claims clearinghouses, to share non-financial encounter information with the state-designated health information exchange (HIE), currently CRISP. The legislation will facilitate success under the Model by improving hospital- and community-based care partners' visibility into patient care patterns and care teams. This information is essential as hospitals are increasingly required to manage new panels of patients and exhibit care transformation expected by CMS.

The legislation will also ease the burden for non-hospital providers who share information into the HIE. Under current practice, HIE users must share patient rosters manually. This information is already embedded in the encounters available through EHN data feeds. SB 748 facilitates sharing encounter data at scale.

Success under the Model requires Maryland, and Maryland hospitals, to transform the way care is delivered and improve population health. Data is essential to meet these goals. Maryland's commitment to create a statewide health information exchange, with investments from hospital partners, positions Maryland as a leader in health information technology. Fully utilizing this resource is vital to success under Maryland's Total Cost of Care Model.

For these reasons we urge a *favorable* report on Senate Bill 748.

For more information, please contact:

Erin Dorrien, Director, Government Affairs & Policy  
Edorrien@mhaonline.org

**2021 MCHS SB 748 Senate Side.pdf**

Uploaded by: Elliott, Robyn

Position: FAV



## Maryland Community Health System

**Committee:** Senate Finance Committee

**Bill Number:** SB 748 - Public Health – State Designated Exchange – Clinical Information

**Hearing Date:** March 3, 2020

**Position:** Support

Maryland Community Health System (MCHS) supports *Senate Bill 748- State Designated Exchange – Clinical Information*. The bill requires the integration of medical records from nursing homes into the state’s Health Information Exchange, also known as CRISP.

As a network of federally qualified health centers, Maryland Community Health System focuses on improving health outcomes for people who are uninsured or covered by Medicaid or Medicare. It can be challenging for our health centers to manage the care of their patients who are discharged from nursing homes. With the integration of medical information from nursing homes into CRISP, our health centers will be in a better position to manage the care of their patients and reduce the rate of readmissions.

Thank you for your consideration of our testimony, and we urge a favorable vote. If we can provide any further information, please contact Robyn Elliott at [relliott@policypartners.net](mailto:relliott@policypartners.net) or (443) 926-3443.

5850 Waterloo Road, Suite 140, Columbia, Maryland 21045  
410-761-8100



**2021 MFeast SB 748 Senate Side.pdf**

Uploaded by: Elliott, Robyn

Position: FAV



**Committee:** Senate Finance Committee

**Bill Number:** SB 748 - Public Health – State Designated Exchange – Clinical Information

**Hearing Date:** March 3, 2020

**Position:** Support

Moveable Feast supports *Senate Bill 748 - Public Health – State Designated Exchange – Clinical Information*. The bill requires nursing homes to participate in the state’s Health Information Exchange, also known as the Chesapeake Regional Information System for Patients (CRISP).

Moveable Feast provides medically tailored meals in individuals managing life-threatening illnesses. As part of the health care continuum, we coordinate with our client’s providers to keep people healthy in their homes, and thus reducing admissions to the hospital or long-term care facilities. Our registered dietitians can access CRISP to obtain medical information that informs our care coordination efforts. With the addition of medical information from our clients’ nursing home visits, we will be in a better position to assist our clients’ in their transition to their homes and maintain their health.

Thank you for your consideration of our testimony, and we urge a favorable vote. If we can provide any further information, please contact Robyn Elliott at [relliott@policypartners.net](mailto:relliott@policypartners.net) or (443) 926-3443.

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*Moveable*

*Feast is a 501 (c)(3) charitable organization, contributions to which are tax-deductible. A copy of our current financial statement is available upon request by contacting our accounting office. Documents and information submitted to the State of Maryland under the Maryland Charitable Solicitations Act are available from the Office of the Secretary of State, State House, Annapolis, MD 21401 for the cost of copying and postage.*

**2021 MNA SB 748 Senate Side.docx.pdf**

Uploaded by: Elliott, Robyn

Position: FAV



**Committee:** Senate Finance Committee

**Bill Number:** SB 748 - Public Health – State Designated Exchange – Clinical Information

**Hearing Date:** March 3, 2020

**Position:** Support

The Maryland Nurses Association (MNA) supports *Senate Bill 748- State Designated Exchange – Clinical Information*. The bill requires the integration of medical records from nursing homes into the State’s Health Information Exchange, also known as CRISP.

When patients are discharged from nursing homes, nurses are often the primary providers responsible for coordinating patient care. To be effective, nurses need access to complete medical records. With the integration of nursing home records into CRISP, nurses will be in a better position to manage the care of their patients, improve patient outcomes, and reduce readmissions to hospitals and nursing homes.

Thank you for your consideration of our testimony, and we urge a favorable vote. If we can provide any further information, please contact Robyn Elliott at [relliott@policypartners.net](mailto:relliott@policypartners.net) or (443) 926-3443.

**2021 MOTA SB 748 Senate Side.pdf**

Uploaded by: Elliott, Robyn

Position: FAV



# Maryland Occupational Therapy Association

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PO Box 36401 ♦ Towson, Maryland 21286 ♦ [motamembers.org](http://motamembers.org)

**Committee:** Senate Finance Committee

**Bill Number:** SB 748 - Public Health – State Designated Exchange – Clinical Information

**Hearing Date:** March 3, 2020

**Position:** Support

The Maryland Occupational Therapy Association (MOTA) supports *Senate Bill 748- State Designated Exchange – Clinical Information*. The bill requires the integration of medical records from nursing homes into the state’s Health Information Exchange, also known as CRISP.

Occupational therapy providers play a critical role in supporting patients after discharge from nursing homes and other long-term care facilities. We assist patients in adapting to their home environments and living as independently as possible. With access to medical history information from nursing homes through CRISP, we will be in a better position to enable our patients to stay in their homes and avoid readmissions.

Thank you for your consideration of our testimony, and we urge a favorable vote. If we can provide any further information, please contact Robyn Elliott at [relliott@policypartners.net](mailto:relliott@policypartners.net) or (443) 926-3443.

**2021 TCC SB 748 Senate Side.pdf**

Uploaded by: Faulkner, Rachael

Position: FAV



THE COORDINATING CENTER  
INSPIRED SOLUTIONS

**Committee: Senate Finance Committee**

**Bill Number: Senate Bill 748**

**Title: Public Health – State Designated Exchange – Clinical Information**

**Hearing Date: March 3, 2021**

**Position: Support**

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The Coordinating Center (The Center) supports *Senate Bill 748 – Public Health-State Designated Exchange-Clinical Information*. This bill would make permanent electronic data reporting by nursing homes through Maryland’s health information exchange.

The Center is an independent, care coordination organization with 38 years of experience, coordinating services for more than 10,000 people with disabilities and complex medical needs across the state. This includes services for individuals enrolled in Medicaid’s Home- and Community-Based Services’ waivers and programs, including Maryland’s Community Options Waiver. The purpose of these programs is to support individuals who wish to remain in their homes when they meet a nursing home level of care.

Oftentimes, our coordinators engage with individuals residing in nursing facilities transition back home. The Center believes streamlining data sharing through CRISP has the potential to assist organizations that work closely with nursing facilities; including expediting care coordination services designed to transition individuals back to their homes and communities.

Thank you for your consideration of our testimony, and we urge a favorable vote. If we can provide any further information, please contact Rachael Faulkner at [rfaulkner@policypartners.net](mailto:rfaulkner@policypartners.net) or (410) 693-4000.



# **SB0748\_FAV\_MedChi - PH - State Designated Exchange**

Uploaded by: Ransom, Gene

Position: FAV

# MedChi

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*The Maryland State Medical Society*

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Baltimore, MD 21201-5516  
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Fax: 410.547.0915

1.800.492.1056

www.medchi.org

TO: The Honorable Delores G. Kelley, Chair  
Members, Senate Finance Committee  
The Honorable Pamela Beidle

FROM: Gene M. Ransom, CEO

DATE: March 3, 2021

RE: **SUPPORT** – Senate Bill 748 – *Public Health - State Designated Exchange - Clinical Information*

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The Maryland State Medical Society (MedChi), the largest physician organization in Maryland, supports Senate Bill 748.

Senate Bill 748 requires an electronic health network to provide administrative transactions to the State Designated Exchange (i.e., CRISP) for public health and clinical purposes. An electronic health network may not charge a fee to a health care provider or to CRISP for providing the information. Under the bill, CRISP is required to develop and implement policies and procedures that are consistent with regulations adopted by the Maryland Health Care Commission (MHCC). The regulations adopted by MHCC should provide for a uniform, gradual implementation of the exchange of clinical information that limits redisclosure of financial information, including billed or paid amounts available in electronic claims transactions; restricts data of patients who have opted out of records sharing through the state designated exchange or a health information exchange authorized by MHCC; and restrict data from health care providers that possess sensitive health care information.

The sharing of data through CRISP is paramount to the coordination of patient care in Maryland and to achieve Maryland's continued efforts to reform the delivery of care under Maryland Total Cost of Care model. Health care practitioners and health systems need up-to-date information to ensure patients receive appropriate treatment and that resources are being appropriately used. This became especially obvious during the COVID-19 pandemic where CRISP provided critical information to both providers and the State information on hospital and nursing home capacity. Senate Bill 748 will leverage existing resources and streamline the sharing of information by requiring information from an electronic health network to be shared with CRISP. This will provide practitioners with greater access to a patient's care and reduce the burden currently placed on physicians and other practitioners. MedChi strongly urges a favorable report.

**For more information call:**

Pamela Metz Kasemeyer

J. Steven Wise

Danna L. Kauffman

410-244-7000

**SB 748\_MHCC\_Position Statement\_Support\_030321fina**

Uploaded by: Steffen, Ben

Position: FAV

STATE OF MARYLAND

Andrew N. Pollak  
CHAIR



Ben Steffen  
EXECUTIVE DIRECTOR

**MARYLAND  
COMMISSION**

4160 PATTERSON AVENUE –

**HEALTH CARE**

BALTIMORE, MARYLAND 21215

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**2021 SESSION  
POSITION PAPER**

**BILL NO: SB 748**  
**COMMITTEE: Finance Committee**  
**POSITION: SUPPORT**

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**TITLE: Public Health – State Designated Exchange – Clinical Information**

**BILL ANALYSIS**

Senate Bill 748 (“SB 748”) requires a nursing home to electronically submit clinical health care information to the State designated health information exchange, Chesapeake Regional Informational System for our Patients (CRISP). The bill authorizes CRISP to provide health information to health care providers, health information exchange users, and state and federal officials to facilitate a state health improvement program, mitigate a public health emergency, and to improve patient safety. SB 748 also provides for the protection of health information by limiting redisclosure of financial transactions and medical billing, restricts access to patient data for patients who have opted out of record sharing, and restricts data from health care providers that possess sensitive health care information.

**POSITION AND RATIONALE**

The Maryland Health Care Commission (the “Commission”) supports SB 748.

CRISP, Maryland’s state designated health information exchange, plays a critical role in our health care system by facilitating the electronic exchange of health information among health care providers. The exchange of health information electronically allows doctors, nurses, pharmacists, other health care providers and patients to appropriately access and securely share a patient’s vital medical information improving the speed, quality, safety, and cost of patient care. The exchange of health information allows for the effective coordination of health care which leads to better efficiencies and patient outcomes.

CRISP has the infrastructure through the collection and electronic exchange of health information to overcome traditional challenges of caring for patients across organizations, such

*Note: The Maryland Health Care Commission is an independent State agency, and the position of the Commission may differ from the position of the Maryland Department of Health.*

as delayed reporting, incomplete information, repeat testing, and resource limitations, through a coordinated approach and information sharing. CRISP's Query Portal allows physicians and support staff to query patients they are treating to view clinical information from acute care hospitals in Maryland and the District of Columbia.

Nursing homes are an important component of our health care system and requiring them to report health information to CRISP will serve to provide improved coordination of care. Health care providers for this population will have access to the nursing home health records and information across organizations giving them a comprehensive picture of the patient which can result in better accuracy of demographic and clinical information to support clinical care. The access to health information across health providers and organizations would also allow nursing homes to improve care coordination and as well as provide public health support for nursing homes for real-time monitoring of the facility, public health reporting requirements, safer transitions of care, enhanced hospital coordination, and targeted interventions for high-needs residents.

SB 748 also allows CRISP to combine other data maintained by the State to facilitate a state health improvement program, mitigate a public health emergency, and improve patient safety. Additionally, the bill provides consumer patient protections by allowing patients to opt out of the health information exchange, limiting the redisclosure of financial information, and restricting data from health care providers that possess sensitive health information.

SB 748 aligns with the objectives of the work of the state designated exchange and as well as the overall health system goals around the exchange of health information and health outcomes.

For these reasons the Commission asks for a favorable report on SB 748.

# **HFAM Testimony SB 748.pdf**

Uploaded by: DeMattos, Joseph

Position: FWA



**TESTIMONY BEFORE THE  
SENATE FINANCE COMMITTEE**

March 3, 2021

Senate Bill 748: Public Health - State Designated Exchange - Clinical Information  
*Written Testimony Only*

**POSITION: FAVORABLE WITH AMENDMENT**

On behalf of the members of the Health Facilities Association of Maryland (HFAM), we appreciate the opportunity to express our support with amendment for Senate Bill 748: Public Health - State Designated Exchange - Clinical Information.

HFAM represents over 170 skilled nursing centers and assisted living communities in Maryland, as well as nearly 80 associate businesses that offer products and services to healthcare providers. Our members provide services and employ individuals in nearly every jurisdiction of the state. HFAM members provide the majority of post-acute and long-term care to Marylanders in need: 6 million days of care across all payer sources annually, including more than 4 million Medicaid days of care and one million Medicare days of care. Thousands of Marylanders across the state depend on the high-quality services that our skilled nursing and rehabilitation centers offer every day.

Senate Bill 748 creates a critically important data exchange framework to use a targeted set of data in identify emerging healthcare delivery challenges proactively and in advance of a crisis. For instance, in the COVID-19 pandemic, we have learned and now know from clinical leaders in our sector and from hospital partners about the precise blood oxygen levels and fever thresholds that are demonstrative and problematic when an individual becomes infected with the COVID-19 virus. This legislation directs CRISP, the Maryland Department of Health (MDH), and our sector regarding the use of technology and automated data-mining to alert providers on such health parameters.

Beyond the public health emergency of the COVID-19 pandemic, the framework directed in Senate Bill 748 could serve as an early warning system relative to other infectious disease challenges such as Listeria infection or the treatment of chronic conditions such as diabetes.

Senate Bill 748 is agnostic relative to any specific software program that might be deployed to meet the directives outlined in the bill. HFAM would expect any such software to be acquired under competitive bidding procurement.

It has been often said knowledge is power. The COVID-19 pandemic has reminded all of us in healthcare that actionable knowledge begins with data. Therefore, we support this legislation with the following amendments to ensure the data collected is used only for the specific purposes listed in the bill text.

1. Page 2, beginning line 30 in section (F) (1), change the language to: **"TO ADVANCE THE OBJECTIVES LISTED UNDER PARAGRAPH (3) OF THIS SUBSECTION AND ON REQUEST OF THE DEPARTMENT, A NURSING HOME SHALL SUBMIT ELECTRONICALLY CLINICAL INFORMATION TO THE STATE DESIGNATED EXCHANGE."**

(more)

2. Page 3, lines 3-5 in section (F) (2), change the language to: **“IN ACCORDANCE WITH STATE AND FEDERAL LAW AND TO ADVANCE THE OBJECTIVES UNDER PARAGRAPH (3) OF THIS SUBSECTION, THE STATE DESIGNATED EXCHANGE MAY PROVIDE THE INFORMATION SUBMITTED UNDER PARAGRAPH (1) OF THIS SUBSECTION TO:”**

3. Amend page 3, beginning line 12 in section (3) to read:

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

**1. A STATE HEALTH IMPROVEMENT PROGRAM;**

**2. MITIGATION OF A PUBLIC HEALTH EMERGENCY; AND**

**3. IMPROVEMENT OF PATIENT SAFETY.**

**(II) THE INFORMATION SUBMITTED BY A NURSING HOME UNDER THIS SUBSECTION SHALL ONLY BE USED FOR THE OBJECTIONS IN THIS PARAGRAPH AND MAY NOT BE USED FOR ANY OTHER PURPOSE, INCLUDING ACTIONS INVOLVING LICENSING AND CERTIFICATION.**

We note that our colleagues at the LifeSpan Network developed the amendments offered in our testimony and we are in full agreement with them. In addition, it is important to highlight that the framework outlined and software solutions put in place by Senate Bill 748 are funded with revenue and appropriations from Maryland State Government.

Lastly, while Senate Bill 748 directs the development of this framework through partnership with CRISP, the Maryland Department of Health, and nursing homes, we believe that there is value in collecting such data from other settings, including hospitals and settings across the continuum of care.

**For these reasons, and with these proposed amendments, we respectfully request a favorable from the Committee on Senate Bill 748.**

*Submitted by:*

Joseph DeMattos, Jr.  
President and CEO  
(410) 290-5132



# **LeadingAge Maryland - 2021 - SB 748 - clinical inf**

Uploaded by: Greenfield, Aaron

Position: FWA



6811 Campfield Road  
Baltimore, MD 21207

**TO:** The Honorable Delores Kelley  
Chairwoman, Finance Committee

**FROM:** LeadingAge Maryland

**SUBJECT:** Senate Bill 748, Public Health - State Designated Exchange - Clinical Information

**DATE:** March 3, 2021

**POSITION: Favorable with Amendments**

LeadingAge Maryland writes to request a favorable with amendments report on Senate Bill 748, Public Health - State Designated Exchange - Clinical Information.

LeadingAge Maryland is a community of not-for-profit aging services organizations serving residents and clients through continuing care retirement communities, affordable senior housing, assisted living, nursing homes and home and community-based services. We represent more than 120 not-for-profit organizations, including the vast majority of CCRCs in Maryland. Our mission is to expand the world of possibilities for aging in Maryland. We partner with consumers, caregivers, researchers, faith communities and others who care about aging in Maryland.

This bill requires a nursing home, on request of the Maryland Department of Health, to electronically submit clinical information to the State designated exchange (CRISP). In accordance with state and federal law, the state designated exchange may provide the information to a health care provider, an authorized health information exchange user, a health information exchange authorized by the Maryland Health Care Commission, a federal official and a State official. An electronic health network may not charge a fee to a health care provider or to CRISP for providing the information.

By collecting clinical data from nursing homes and submitting to CRISP, Senate Bill 748 ensures that providers across the continuum of care will have needed access to patient data. This

will greatly assist in deploying resources and coordinating care as a patient moves from provider to provider. Additionally, this legislation may result in reduced Medicare spending which is an important metric in the Maryland Total Cost of Care Model contract with CMS. Lastly, LeadingAge Maryland believes this collection of data will benefit policy makers in improving patient health and responding to emergencies, like COVID-19.

While LeadingAge Maryland is concerned that providing this data could be burdensome and duplicative, we recognize the benefits in passing this bill. We understand that amendments will be offered ensuring that the data provided by nursing homes is only used for purposes of mitigating public health emergencies and improving patient safety. We are in strong support of these amendments.

Amendment No. 1

On page 2, in line 30, before “ON” add “TO ADVANCE THE OBJECTIVES LISTED UNDER PARAGRAPH (3) OF THIS SUBSECTION AND”

Amendment No. 2

On page 3, in line 3, after “LAW” add “AND TO ADVANCE THE OBJECTIVES UNDER PARAGRAPH (3) OF THIS SUBSECTION”

Amendment No. 3

On page 3, in line 15, after “TO” add “ONLY”

Amendment No. 4

On page 3, after line 18, add “(II) THE INFORMATION SUBMITTED BY A NURSING HOME UNDER THIS SUBSECTION SHALL ONLY BE USED FOR THE OBJECTIONS IN THIS PARAGRAPH AND MAY NOT BE USED FOR ANY OTHER PURPOSE, INCLUDING ACTIONS INVOLVING LICENSING AND CERTIFICATION

For these reasons, LeadingAge Maryland respectfully requests a favorable report with amendments for Senate Bill 748.

For additional information, please contact Aaron J. Greenfield, 410.446.1992

# **SB0748\_FWA\_LifeSpan\_PH - State Designated Exchange**

Uploaded by: Kauffman, Danna

Position: FWA



*Keeping You Connected...Expanding Your Potential...  
In Senior Care and Services*

TO: The Honorable Delores G. Kelley, Chair  
Members, Senate Finance Committee  
The Honorable Pamela Beidle

FROM: Danna L. Kauffman  
Pamela Metz Kasemeyer  
J. Steven Wise

DATE: March 3, 2021

RE: **SUPPORT with AMENDMENT** – Senate Bill 748 – *Public Health - State Designated Exchange - Clinical Information*

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On behalf of the LifeSpan Network, the largest and most diverse senior care provider association in Maryland representing nursing facilities, assisted living providers, continuing care retirement communities, medical adult day care centers, senior housing communities and other home- and community- based services, we **support with amendment** Senate Bill 748.

Among other provisions, Senate Bill 748 requires nursing homes to submit information, at the request of the Maryland Department of Health, to the State’s Health Information Exchange (i.e., CRISP) for the purposes of facilitating a State health improvement program, mitigation of a public health emergency, and improvement of patient safety. Under the bill, CRISP will then have the authority for consolidating reporting of industry information.

LifeSpan understands the need to develop a cohesive public policy that advances the coordination of care across the continuum and works to meet Maryland’s goals under the Total Cost of Care model. Senate Bill 748 marks the first step in establishing the infrastructure that can be built upon to meet the purposes of improving quality of care and responding to public health emergencies. However, while we support Senate Bill 748, we also want to ensure that the information reported is only used to support the goals articulated in the bill and is not used for other purposes. Therefore, we support amendments to clarify that the data may only be used for those purposes. With this clarification, we urge a favorable vote.

**For more information call:**  
Pamela Metz Kasemeyer  
J. Steven Wise  
Danna L. Kauffman  
410-244-7000

**CareFirst Testimony FWA HB 1022 SB 748.pdf**

Uploaded by: Rivkin, Deborah

Position: FWA

**Deborah Rivkin**  
Vice President  
Government Affairs – Maryland

**CareFirst BlueCross BlueShield**  
1501 S. Clinton Street, Suite 700  
Baltimore, MD 21224-5744  
Tel. 410-528-7054  
Fax 410-528-7981



## **SB 748 / HB 1022 – Public Health-State Designated Exchange-Clinical Information**

### **Position: Favorable with Amendments**

Thank you for the opportunity to provide written comments on SB 748 / HB 1022. The policy goal of this bill is to enhance the authority of State-Designated Health Information Exchange (HIE) to enable health care data collection and sharing to support effective public health response efforts for COVID-19 and future initiatives. To this end, the bill requires that an “electronic health network” (EHN) provide administrative transactions to the HIE for public health and clinical purposes. EHN is defined as “an entity involved in the exchange of electronic health care transactions between a payor, health care provider, vendor, and any other entity.”

CareFirst is committed to driving the transformation of the healthcare experience with and for all our members and communities, with a focus on quality, equity, affordability, and access to care. CareFirst is supportive of the policy goal of improving data exchange to enable transparency, improved public health, and higher quality care.

However, we have a number of concerns with the breadth of the bill as drafted. We believe the bill needs further definition and clarity in a number of places, and that its interaction with upcoming federal regulations relating to the interoperability of health information must be addressed.

We look forward to partnering with legislators, the Maryland Health Care Commission, public health groups, and other stakeholders to work on amendments to accomplish these goals.

### **We urge a favorable with amendments report.**

#### **About CareFirst BlueCross BlueShield**

*In its 83rd year of service, CareFirst, an independent licensee of the Blue Cross and Blue Shield Association, is a not-for-profit healthcare company which, through its affiliates and subsidiaries, offers a comprehensive portfolio of health insurance products and administrative services to 3.4 million individuals and employers in Maryland, the District of Columbia, and Northern Virginia. In 2019, CareFirst invested \$43 million to improve overall health, and increase the accessibility, affordability, safety, and quality of healthcare throughout its market areas. To learn more about CareFirst BlueCross BlueShield, visit our website at [www.carefirst.com](http://www.carefirst.com) and our transforming healthcare page at [www.carefirst.com/transformation](http://www.carefirst.com/transformation), or follow us on [Facebook](#), [Twitter](#), [LinkedIn](#) or [Instagram](#).*

# **Cooperative Exchange Association Letter of Concern**

Uploaded by: Denison, Mike

Position: UNF





**SUBMITTED TO:**

**Honorable Delores G. Kelley**

**Chair, Senate Finance Committee**

**AND**

**STATE OF MARYLAND GENERAL ASSEMBLY**

**February 25, 2021**

**Presented By: Crystal Ewing, Director of Product, Waystar**

**Board Chair, Cooperative Exchange: The National Clearinghouse Association**

Honorable Delores G. Kelley and members of the Maryland General Assembly, I am Crystal Ewing, Board Chair of the Cooperative Exchange (CE), representing the National Clearinghouse Association, and Director of Product, Waystar. I submit the following concerns on behalf of the Cooperative Exchange membership specific to [House Bill 1022](#) / [Senate Bill 0748](#) (the Bill); An Act concerning Public Health – State Designated Exchange – Clinical Information.

#### **The Cooperative Exchange Background**

The Cooperative Exchange is a nationally recognized association representing the healthcare clearinghouse industry in the United States. Our 23<sup>1</sup> clearinghouse member companies represent over 90% of the nation's clearinghouse organizations and process over 6 billion healthcare claims, reflecting over 2 trillion dollars in billed services annually. Our association members enable nationwide connectivity between over 1 million provider organizations, more than 7,000 payers, and 1,000 Health Information Technology (HIT) vendors. The Cooperative Exchange truly represents ***the U.S. healthcare electronic data interchange (EDI) interstate highway system*** enabling connectivity across all lines of healthcare eCommerce in the United States.

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<sup>1</sup> The Cooperative Exchange (CE) is comprised of 23 of the leading clearinghouses in the US. The views expressed herein are a compilation of the views gathered from our member constituents and reflect the directional feedback of the majority of its collective members. CE has synthesized member feedback and the views, opinions, and positions should not be attributed to any single member and an individual member could disagree with all or certain views, opinions, and positions expressed by CE.

On behalf of the Cooperative Exchange, I am writing to provide comments on the Bill, which proposes to amend Md. Code Ann. § 302.3(g) which requires an EHN to:

*“provide administrative transactions to the State designated exchange for public health and clinical purposes”* and stipulates that an EHN *“may not charge a fee to a health care provider or to the State designated exchange for providing the information...”*

While the Cooperative Exchange fully supports the goals of the State of Maryland to improve access to clinical care by treating physicians and promote uses of the State designated exchange important to public health agencies, we are concerned that the State is legislating a broad mandate impacting private sector entities and lacking consideration for financial capacity or sustainability. The Cooperative Exchange submits the following concerns with the proposed requirements:

### **Summary of Concerns**

- In 2018, [Maryland Senate Bill 896](#) required the Maryland Health Care Commission (MHCC) to establish an advisory committee to study the feasibility of creating a health record and payment integration program and report to the Governor and General Assembly any findings and recommendations. The Advisory Committee consisted of 43 members with strong subject matter expertise, representing stakeholder groups with a range of interests and positions as it relates to health record and payment integration. In the [May 2019 final report](#) published by the MHCC regarding Senate Bill 896, the report included themes of “Unclear value...”, “Accountability and legal obligations for the data...”, and “Timeliness and accuracy of claims data as compared to clinical data.” It concluded, in part: “The concept of a health record and payment integration program proposed in Senate Bill 896 is laudable; though, it’s inconsistent with the evolution of the industry and many stakeholders’ vision of the future.”
- The intended use statement for EHNs providing administrative data to the State designated exchange is extremely high-level and vague with the stated purpose “for public health and clinical purposes”. EHNs have invested significant human and financial capital in developing, deploying, and supporting valuable and innovative private sector products and solutions in the U.S. health care marketplace. The private sector has also competitively established contractual relationships with providers, payers, and other health care entities for products and solutions that rely on administrative data and data use agreements. Proposing to mandate EHNs to “freely” provide administrative data without compensation would enable the State designated and taxpayer sponsored exchange to compete unencumbered by decades of numerous private sector investments creating a clear and unfair competitive advantage for the State designated exchange. The proposed changes would impose a forced operational model onto third-party organizations without consideration for investments made by the private sector or the recoupment of implementation and recurring costs to comply with the Bill’s requirements.
- As the proposed Bill would prohibit an EHN from charging a fee to providers or the State designated exchange, how would the private sector costs associated with establishing and maintaining a data feed be sustained? As notated in Section 2 of 4–302.3, will the Maryland Department of Health include EHN funding considerations when they identify and seek appropriate funding to implement Section 1? While other State designated exchange participants may realize value, there is no value proposition for the burden-bearing EHNs.
- EHNs, as a business associate to covered entities, are entrusted to process administrative transactions in a compliant, secure, and private manner consistent with federal and state regulations and contractual terms. As a business associate, EHN’s are only permitted to disclose administrative transactions (i.e.,

protected health information) as permitted or required by contract with a covered entity, or as required by law. (See 45 CFR §§ 164.502, 164.504(e)). HIPAA generally permits, but does not require, a covered entity to use or disclose protected health information, without patient authorization, for treatment and public health purposes (See 45 CFR §§ 164.506, 164.512). The proposed Bill attempts to maneuver around HIPAA requirements by forcing business associates to make disclosures of covered entities' data that covered entities themselves would not be required to make under HIPAA without the proper authorizations or agreements in place. Disclosing administrative transactions as proposed by the Bill may require business associate agreement and contractual amendments or force EHNs to be in potential breach of binding contractual and data use agreements and federal HIPAA rules. Moreover, disclosures of PHI for public health purposes are subject to the "minimum necessary" rules. (See 45 CFR §§ 164.504(b); 164.514(d)). The Bill does not make any statement on which a covered entity may reasonably rely that the Bill satisfies the "minimum necessary" standard. (See 45 CFR § 164.514(d)(3)(iii)(A)). Accordingly, EHN contracted clients may be reluctant to agree to the broad disclosures required under the Bill.

- EHN trading partner relationships are typically administrative and contractual in nature with billing providers, vendors, and payers, vs. directly responding to requests for a single patient's electronic healthcare information (administrative or clinical). The patient is typically not in a contractual relationship with the EHN. Most, if not all, of the information the EHN possesses is duplicative of a more authoritative source. The Maryland Health Care Commission (MHCC) Medical Care Data Base (MCDB) currently collects and makes available privately insured data directly from payers licensed to do business in Maryland including life and health insurance carriers, health maintenance organizations (HMOs), third party administrators (TPAs), and pharmacy benefits managers (PBMs). Maryland Medicaid MCO and CMS claims data is also available to researchers. Data from EHNs would therefore only serve to be redundant to these sources.

### **Conclusion**

**Considering the rational concerns expressed, we indicate our opposition and respectfully request that the proposed revisions to Md. Code Ann. § 302.3(g) specific to electronic health networks (EHNs) be removed from the Bill.**

This will allow the State to re-assess leveraging the Maryland All-Payer Claims Database and the free-market and financial impacts to private sector EHNs and explore existing private sector products and solutions that are already available and in use by consumers, employers, providers, facilities, vendors, and payers within the Maryland health care marketplace.

The Cooperative Exchange would be happy to serve as a subject matter resource if you are interested in discussing the best practices we have identified in our work across the country. We are committed to promoting and advancing healthcare EDI standards and continued efficiency, advocacy, and education to industry stakeholders and government entities.

Respectfully Submitted,

Crystal Ewing  
Board Chair, Cooperative Exchange

## About the Cooperative Exchange

Cooperative Exchange member clearinghouses support both administrative and clinical industry interoperability by:

- Managing tens of thousands of entities and connection points
- Exchanging complex administrative and clinical data content in a secure manner
- Supporting both real-time and batch transaction standards
- Enabling interoperability by normalizing disparate data to industry standards
- Delivering flexible solutions to accommodate varying levels of stakeholder readiness (low tech to high tech)
- Providing strong representation and participation across all national healthcare standard and advocacy organizations with many of our members holding leadership positions

Therefore, we strongly advocate for EDI standardization and administrative simplification within the healthcare industry.

Cc:

### Maryland House Health & Government Operation Committee

- Shane E. Pendergrass, Chair, Health and Government Operations Committee
- Joseline A. Pena-Melnyk, Vice-Chair
- Heather Bagnall
- Ereik L. Barron
- Lisa M. Belcastro
- Harry (H. B.) Bhandari
- Alfred C. Carr, Jr.
- Nick Charles
- Brian A. Chisholm
- Bonnie L. Cullison
- Terri L. Hill
- Steven C. Johnson
- Ariana B. Kelly
- Kenneth P. Kerr
- Nicholaus R. Kipke
- Susan W. Krebs
- Robbyn T. Lewis
- Matt Morgan
- Teresa E. Reilly
- Samuel I. Rosenberg
- Sid A. Saab
- Sheree L. Sample-Hughes
- Kathy Szeliga
- Karen Lewis Young

### Maryland Senate Finance Committee

- Brian J. Feldman, Vice-Chair
- Malcolm L. Augustine

- Pamela G. Beidle
- Joanne C. Benson
- Antonio L. Hayes
- Stephen S. Hershey, Jr.
- J. B. Jennings
- Katherine A. Klausmeier
- Benjamin F. Kramer
- Justin D. Ready

Maryland Health Care Commission (MHCC)

- Ben Steffen, Executive Director
- David Sharp, Director

Chesapeake Regional Information System for Our Patients (CRISP)

- Craig Behm, Maryland Executive Director

**MD SB 748 comment\_final Feb 22 2021.pdf**

Uploaded by: Evatt, Angela

Position: UNF



February 24, 2021

Honorable Delores G. Kelley  
Chair, Senate Finance Committee  
3 East  
Miller Senate Office Building  
Annapolis, Maryland 21401

**RE: Commentary in Opposition to Senate Bill 748 (the “Bill”); An Act concerning Public Health – State Designated Exchange – Clinical Information.**

Dear Chair Kelley and Members of the Senate Finance Committee:

Change Healthcare is one of the largest electronic health networks (EHNs) in the United States, with 2,400 payer connections serving over 1 million providers with electronic health care transaction processing solutions. We connect providers, payers, and technology partners with one of the nation's largest health information networks for eligibility and benefits verification, claims submission and processing, remittance, and payments. We process over 15 billion transactions annually nationwide. In Maryland, we process over 8.7 million transactions with most large providers and health plans. Change Healthcare has been a valued partner to both hospitals and health plans serving beneficiaries in the State of Maryland and we have been a State certified EHN for over 10 years.

Change Healthcare supports the work of the State of Maryland to ensure secure statewide access to clinical information at the point of care and for essential public health surveillance and response. Maryland is a model for a robust statewide health information exchange (HIE), and we applaud the work of the Committee and State agencies, like the Maryland Health Care Commission (MHCC) and the Health Services Cost Review Commission, in these efforts.

On behalf of Change Healthcare, I am writing to provide commentary on the Bill, which proposes to amend Md. Code Ann. § 302.3(g) by requiring an EHN to “provide administrative transactions to the state designated exchange for public health and clinical purposes,” while prohibiting the EHN from charging “a fee to a health care provider or to the state designated exchange for providing the information[.]” Change Healthcare’s concerns with these proposed requirements are set forth below.

## **Broad mandate without a cost-based mechanism or financial sustainability model**

The mandate on EHNs to provide administrative transactions to the state designated exchange will impose a financial burden on Change Healthcare. Compliance with the mandate will require Change Healthcare to establish and maintain a data feed to the state designated exchange. As the Bill prohibits an EHN from charging providers or the state designated exchange a fee for this service, Change Healthcare will be required to bear this cost. The State has always been mindful of the need to ensure the financial sustainability of statewide health information exchange and has taken significant measures to create a clear financial model for the statewide HIE. However, the Bill proposes to impose the cost of increased clinical and public health information availability on private entities in the State. While other HIE users and data providers receive certain value from participating in the HIE, there is no similar value proposition to EHNs.

## **Provides a competitive advantage to a single non-governmental entity**

Change Healthcare provides valuable technical services and solutions to the healthcare industry. Our competitive advantage is realized through the data to which we have access. In partnership with providers and payers, we can leverage the data to offer services and solutions that create efficiencies for our customers. This Bill will create a mechanism by which this data (i.e., administrative transactions) is handed over to a single non-governmental entity, the state designed exchange. Doing so allows for the state designed exchange to have direct access to the same data free of charge, giving it a competitive advantage in the market.

## **Threatens data use agreements, data governance, and is incompatible with Federal and State regulations**

Change Healthcare customers include providers and health plans and Change Healthcare functions as a business associate to these covered entity customers. Our customers entrust us to process administrative transactions in a secure and private manner, and to only use data for appropriately authorized uses, as outlined in our business associate agreements with them. As a business associate, Change Healthcare is only permitted to disclose administrative transactions (i.e., protected health information) as permitted or required by the contract with a covered entity, or as required by law. (See 45 CFR § 164.504(e)).

HIPAA generally permits, but does not require, a covered entity to use or disclose protected health information, without patient authorization, for treatment, payment, healthcare operation, and public health purposes (See 45 CFR §§ 164.506, 164.512). The proposed Bill attempts to make an end run around HIPAA requirements by attempting to force business associates to make disclosures of data that covered entities themselves would not be required to make under HIPAA without the proper authorizations or agreements in place. Disclosing the administrative transactions as proposed by the Bill may require amendments with our covered entity clients.



Otherwise, Change Healthcare would be in breach of its contractual agreements and with Federal HIPAA rules.

The Bill allows for very broad use of administrative transactions “for public health and clinical purposes.” This means that transactions from our health plan and provider customers will be re-disclosed to users of the HIE. The Bill does not provide specifics on how this information will be used or protected. Moreover, disclosures of PHI for public health purposes are subject to the “minimum necessary” rules. (See 45 CFR §§ 164.504(b); 164.514(d)). The Bill does not make any statement on which a covered entity may reasonably rely that the Bill satisfies the “minimum necessary” standard. (See 45 CFR § 64.514(d)(3)(iii)(A)). Accordingly, our customers may be reluctant to agree to the broad disclosures required under the Bill.

Finally, Maryland regulations, COMAR 10.25.18.05, specifically authorizes only “participating organizations” to exchange information through the HIE. A “participating organization” is defined as “a covered entity that enters into an agreement with an HIE that governs the terms and conditions under which its authorized users may use, access, or disclose protected health information through the HIE” (COMAR 10.25.18.02B(43)). Generally, EHNs like Change Healthcare are business associates. This Bill would require a business that is not a covered entity to participate in the HIE, which violates the State of Maryland's own regulations.

#### Noteworthy historical context of industry recommendation to the state

Maryland Senate Bill 896, which the legislature passed in 2018, required the MHCC to establish an advisory committee to study the feasibility of creating a health record and payment integration program and report to the Governor and General Assembly any findings and recommendations. Specifically, the Advisory Committee was asked to assess the *feasibility of incorporating administrative health care claim transactions into the State–Designated HIE, the Chesapeake Regional Information System for our Patients*. The Advisory Committee consisted of 43 members with strong subject matter expertise, representing stakeholder groups with a range of interests and positions as it relates to health record and payment integration.

In its May 2019 final report on Senate Bill 896, the MHCC concluded that “[t]he concept of a health record and payment integration program proposed in Senate Bill 896 is laudable; though, it's inconsistent with the evolution of the industry and many stakeholders' vision of the future.”<sup>1</sup> The report identified the following themes: “Unclear value proposition absent specific use cases to justify investment cost”, “Accountability and legal obligations for the data by HIPAA-covered entities and their business associates, including adherence to Confidentiality of Substance Use Disorder Patient Records, 42 Code of Federal Regulations (CFR) Part 2”, and “Timeliness and accuracy of claims data as compared to clinical data.”

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<sup>1</sup> Report available here: [https://mhcc.maryland.gov/mhcc/pages/hit/hit/documents/HIT\\_HRPI\\_Rpt\\_20190521.pdf](https://mhcc.maryland.gov/mhcc/pages/hit/hit/documents/HIT_HRPI_Rpt_20190521.pdf).

Conclusion

We recommend the above-referenced proposed revisions to Md. Code Ann. § 302.3(g) be removed from the Bill and the state re-assess this requirement to determine an appropriate financial and data governance mechanism that does not disrupt the free-market competitive marketplace.

Change Healthcare strongly supports the efforts of the state to enhance public health surveillance and response and has made available innovative data solutions to support COVID-19 response throughout the U.S. We stand ready to work with the state to provide best practices and solutions that could be helpful in this regard.

We thank you in advance for your consideration of our comments. We are happy to speak with you or your staff on this matter and would welcome any opportunity to provide any assistance if needed.

Regards,



Angela Evatt – Director, State Health Policy

Change Healthcare

337-781-8380

Cc:

David Sharp, Director, Health Information Technology and Innovative Care Delivery,  
Maryland Health Care Commission

Ben Steffen, Executive Director, Maryland Health Care Commission

Craig Behm, Maryland Executive Director, Chesapeake Regional Information System for  
our Patients