

STATE OF MARYLAND



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2021 SESSION POSITION PAPER

BILL NO: HB 1375
COMMITTEE: Health and Government Operations Committee
POSITION: SUPPORT

TITLE: Health Information Exchanges - Electronic Health Information - Sharing and Disclosure

BILL ANALYSIS

House Bill 1375 (“HB 1375”) requires the Maryland Health Care Commission (MHCC) to adopt regulations for the privacy and security of protected health information obtained or released through a health information exchange (HIE). HB 1375 governs the access, use, maintenance, disclosure, and redisclosure of protected health information (PHI) and includes protections for the secondary use of PHI obtained or released through an HIE. The bill requires the State-Designated HIE, to develop and maintain a consent management utility (CMU), which allows a person in interest to opt-out of having their electronic health information shared or disclosed by an HIE.¹ HB 1375 requires the State-Designated HIE to provide an HIE with the opt-out status of a person, on receipt of an electronic request from that HIE for the opt-out status of the person in interest, before sharing or disclosing the person’s electronic health information. HB 1375 also aligns the definition of an HIE in statute with the federal definition.

POSITION AND RATIONALE

The Maryland Health Care Commission (the “Commission”) supports HB 1375.

HIEs emerged more than a decade ago as a result of the federal Health Information Technology for Economic and Clinical Health (HITECH) Act of 2009, which provided funding for the establishment of HIEs by states or state-designated entities to support electronic data sharing. HIEs build secure and robust connections to enable the exchange of health data from disparate health information systems operated by providers, payers, electronic health record vendors, and government agencies. Although consumers recognize the need for and the benefit of

¹ CRISP is the State-Designated Health Information Exchange

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.

electronically sharing their health information, they want and expect to control who has access to their electronic health information. The establishment of a centralized CMU will help minimize concerns consumers often raise about privacy and security.

The bill requires the State-Designated HIE, in compliance with regulations to be adopted by MHCC, to develop an on-line CMU that will enable a consumer to opt-out from having all or part of their electronic health information stored or disclosed by HIEs.² The bill requires the State-Designated HIE to establish and maintain a centralized CMU of consumers opt-out choices, which an HIE must access and honor prior to responding to a query for an individual's electronic health information. The bill will enable consumers to control access to their electronic health information while also standardizing the flow of information among HIEs and health care providers.³

HIEs connect health care providers, enable the electronic sharing of health information, and reduce duplication of services. A centralized CMU maintained by the State-Designated HIE will allow consumers to fill out one form to opt-out from having their electronic health information shared among HIEs. Today, consumers choosing to opt-out or opt back into an HIE may need to complete separate request forms for up to 11 different HIEs. These processes are onerous for consumers. The bill directs the State-Designated HIE to develop and operate a centralized CMU that registered HIEs operating in Maryland must access prior to sharing or disclosing an individual's electronic health information. The bill provides a single solution for consumers to securely record and share their data sharing preferences with all registered HIEs.

HIEs provide the framework for enabling the flow of electronic patient information between stakeholders. This bill also changes the definition of HIE to conform with the recently modified federal definition. Conforming the statutory definition of an HIE with the federal definition is essential to requiring HIEs to use consistent standards that support interoperability, which is the ability of health information systems to work together within and across organizational boundaries in order to advance the effective delivery of healthcare for individuals and communities.

Conforming the definition is essential to ensure that HIEs implement the same standards and are capable of connecting diverse stakeholders. In general, standards enable information to be accessed and shared appropriately and securely across the complete spectrum of care, within all applicable settings and with relevant stakeholders, including consumers. HIEs' use of consistent interoperability standards is critical for health care providers to exchange electronic health information efficiently and economically.

This legislation reflects the work that MHCC and its HIE Policy Board undertook several years ago. The Commission asks for a favorable report on HB 1375.

² COMAR 10.25.18 Health Information Exchanges: Privacy and Security of Protected Health Information requires all entities that meet the statutory definition of an HIE to register with MHCC.

³ Except in emergency situations defined at H-G §4-301(e).