

SB648- Johns Hopkins - Support.pdf

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Position: FAV

SB648
Favorable

TO: The Honorable Melony Griffith, Chair
Senate Finance Committee

FROM: Annie Coble
Assistant Director, State Affairs

DATE: March 1, 2023

RE: SB648 ELECTRONIC HEALTH NETWORKS AND ELECTRONIC MEDICAL
RECORDS - NURSING HOMES - RELEASE OF RECORDS

Johns Hopkins **supports SB648 Electronic Health Networks and Electronic Medical Records - Nursing Homes - Release of Records.** This bill authorizes a nursing home that uses an electronic health network to release patient medical records to a business associate of the nursing home. This authorization would greatly enhance interoperability of nursing homes data with key partners along the continuum of care.

Johns Hopkins Medicine has been under extreme pressure due to unrelenting high occupancy of patients. The Johns Hopkins Hospital routinely runs at an occupancy well into the 90th-percentile range. This causes downstream system impacts, such as extended wait times in the emergency department. One of the reasons for the high occupancy relates to the challenges in discharging patients to appropriate levels of care, such as nursing homes.

Creating more flexibility around the use of electronic health records for nursing homes may alleviate some operational difficulties experienced by nursing homes, which could impact their patient throughput and have an upstream benefit to hospitals. We understand the issue of high occupancy rates is very complex and cannot be solved with one simple change; however, we believe this bill is a step in the right direction for making long term change.

For these reasons and more, Johns Hopkins urges a **favorable** report on **SB648**.

2023 Legislation - SB 648 Electronic Health Networ

Uploaded by: Ben Steffen

Position: FAV



2023 SESSION POSITION PAPER

BILL NO: SB 648

COMMITTEE: Senate Finance Committee

POSITION: SUPPORT

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

BILL ANALYSIS

SB 648 - Electronic Health Networks and Electronic Medical Records - Nursing Homes - Release of Records Electronic Health Network (“EHN,” “network,” or “health care clearinghouse”) requires EHNs operating in Maryland to submit certain transactions to the State designated health information exchange (HIE). This bill authorizes a nursing home that contracts with an EHN or electronic medical record vendor to direct the network or vendor to release electronic medical records and electronic health care transactions to a business associate of the nursing home.

POSITION AND RATIONALE

The Maryland Health Care Commission (“MHCC”) supports SB 648. EHNs route administrative transactions electronically between providers and payors.^{1,2} This includes nearly all health care claims (98.6 percent) for commercial and government payors in Maryland.³ EHNs are a value-add to providers and payors by validating transactions for completeness and accuracy, monitoring the status of each transaction, and retaining transaction backup files.⁴ Electronic health care claims routed through an EHN reduces administrative overhead cost by as much as seven percent of the paper cost for payors and 47 percent of the paper cost for providers.^{5,6}

COMAR 10.25.07, *Certification of Electronic Health Networks and Medical Care Electronic Claims Clearinghouses*, requires payors operating in the State to only accept transactions from MHCC

¹ Electronic Data Interchange (EDI) standards define the location and order of information in a document format. With this automated capability, data can be shared rapidly instead of over the hours, days or weeks required when using paper documents or other methods.

² EDI Basics. Available at: edibasics.com/edi-resources/document-standards/hipaa/.

³ Claims transactions are most common; other transactions include health care claim payment advice; health care claim status request; eligibility, coverage, or benefit inquiry/information; benefit enrollment and maintenance; health care service review information; and payment order/remittance advice.

⁴ The Centers for Medicare & Medicaid Services, *Remittance Advise and FAQs*. Available at: cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/Downloads/ICN905367TextOnly.pdf.

⁵ Payor claim submission cost per transaction is \$1.18 for manual and \$0.08 for electronic. Provider claim submission cost per transaction is \$2.52 for manual and \$1.19 for electronic.

⁶ 2020 CAQH, *Closing the Gap: The Industry Continues to Improve, But Opportunities for Automation Remain*. Available at: caqh.org/sites/default/files/explorations/index/2020-caqh-index.pdf.

certified EHNs.⁷ To receive MHCC certification, EHNs must be accredited or certified by a nationally recognized organization where standards related to privacy and confidentiality, business practices, physical and human resources, technical performance, and security are evaluated.⁸ Approximately 30 EHNs operate in Maryland and are certified by MHCC.

COMAR 10.25.18, *Health Information Exchanges: Privacy and Security of Protected Health Information*, builds upon protections established by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), as amended by the Health Information Technology for Economic and Clinical Health Act (HITECH) in 2009.⁹ The regulations aim to ensure privacy and security of protected health information while improving access to health records by treating providers and supporting public health goals. Amendments to the regulations are underway to update and align with federal policy and incorporate requirements in Chapter 790 (HB 1022) and Chapter 791 (SB 791) of the 2021 Laws of Maryland that require EHNs to provide administrative transactions to the State designated HIE for certain purposes.¹⁰

The Cooperative Exchange, The National Clearinghouse Association¹¹ (EHN association), has raised concerns of a possible conflict between Maryland law and HIPAA. Specifically, the Cooperative Exchange argued to MHCC that HIPAA Administrative Simplification regulations (45 CFR Parts 160, 162, and 164) administered by United States Department of Health and Human Services, Office for Civil Rights (HHS-OCR), prohibit compliance with the Maryland statutory requirements for submitting electronic health care transactions to the State designated HIE. The issue is whether a health care clearinghouse acting as business associate of a health care provider would be in compliance with HIPAA if a health care clearinghouse also complied with Maryland Health-General §4-302.3(h)(1). The MHCC does not believe a conflict exists with Maryland’s law and HIPAA and notes that the Cooperative Exchange has not sought an opinion from HHS-OCR in support of their opinion.

The compliance issues asserted by the EHN association may pose challenges for implementing the law. The MHCC also believes that some EHNs will argue the applicability of SB 648, which prohibits EHNs from charging a fee to a provider, a payor, or the State designated HIE for providing the information as required by the Act. The MHCC is working to achieve EHNs conformance with the existing law and looks forward to advancing SB 648 if passed by the legislature.

⁷ Health General Article § 19-134 requires MHCC to establish standards for the operation of medical care electronic claims clearinghouses in Maryland and license clearinghouses meeting those standards.

⁸ Organizations include the Electronic Healthcare Network Accreditation Commission (EHNAC, now part of DirectTrust) and the Health Information Trust Alliance (HITRUST).

⁹ The HITECH Act was enacted under Title XIII of the American Recovery and Reinvestment Act of 2009. Available at: govinfo.gov/content/pkg/PLAW-111publ5/pdf/PLAW-111publ5.pdf.

¹⁰ For example, a State health improvement program, mitigation of a public health emergency, and improvement of patient safety.

¹¹ The Cooperative Exchange is the recognized resource and representative of the health care transaction clearinghouse industry. More information is available at: cooperativeexchange.org.



SB0648_FAV_LifeSpan_Elec. Health Networkds & Elec.

Uploaded by: Danna Kauffman

Position: FAV



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

TO: The Honorable Melony Griffith, Chair
Members, Senate Finance Committee
The Honorable Jim Rosapepe

FROM: Danna L. Kauffman
Pamela Metz Kasemeyer
Christine K. Krone
410-244-7000

DATE: March 1, 2023

RE: **SUPPORT** – Senate Bill 648 – *Electronic Health Networks and Electronic Medical Records – Nursing Homes – Release of Records*

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** Senate Bill 648.

Senate Bill 648 requires an electronic health record vendor that is releasing patient medical records or electronic health care transactions to: (1) release the records or transactions in an electronic format that conforms to certain specifications; (2) 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 (3) not restrict, limit, or charge a fee for the release of the records or transactions. As we have seen during the COVID-19 pandemic, the transmission of prompt health information in a safe and secure manner is beneficial in monitoring patient care to respond to emerging issues in public health. Removing barriers or providing reassurances on the processes is always beneficial. As such, LifeSpan supports Senate Bill 648.

HFAM Testimony SB 648.pdf

Uploaded by: Joseph DeMattos

Position: FAV



**TESTIMONY BEFORE THE
SENATE FINANCE COMMITTEE**

Senate Bill 648: Electronic Health Networks and Electronic Medical Records –
Nursing Homes - Release of Records
March 1, 2023
Written Testimony Only

POSITION: FAVORABLE

On behalf of the members of the Health Facilities Association of Maryland (HFAM), we appreciate the opportunity to express our support for Senate Bill 648. HFAM represents skilled nursing centers and assisted living communities in Maryland, as well as associate businesses that offer products and services to healthcare providers. Our members provide services and employ individuals in nearly every jurisdiction of the state.

Senate Bill 648 authorizes a nursing home that contracts with or uses an electronic health information network or electronic medical record vendor to direct the network or vendor to release electronic medical records and electronic health care transactions to a business associate of the nursing home.

Nursing homes provide a critical safety net for Marylanders in need. People who receive care in skilled nursing and rehabilitation centers often have multiple medical conditions such as congestive heart failure, diabetes, and hypertension. If not cared for in a nursing home, these Marylanders would most likely receive care in a hospital at a much higher cost.

It is essential that nursing homes are empowered to provide coordinated, multi-disciplinary care. Modern data mining tools have been developed to take a deep dive in to patient data and guide staff in the early diagnosis and treatment of health issues.

The data contained in an electronic health record (EHR) belongs to the patient. Federal laws have been passed to protect a patient's record and make their record available to the care team. Unfortunately, through unintended loop holes, some EHR companies operate as if they own the data and may even try to monetize that data to the detriment of the patient's care.

These EHR companies make data difficult to obtain by charging exorbitant fees to gain access to complete data, potentially harming the Maryland CRISP program in addition to patient care.

The intent of this legislation is to support the continued access of the CRISP program, which will save money under the Total Cost of Care Contract. It establishes that chosen partners, while following HIPAA regulations, should have unobstructed access to patient data contained in the EHR. This is critical to ensuring that the medical team has tools they need to guide quality care. We cannot allow EHR companies to hold resident and patient data hostage at the detriment of care.

For these reasons, we respectfully request a favorable report from the Committee on Senate Bill 648.

Submitted by:

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

6b - SB 648 - FIN - MHCC - LOS.pdf

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Position: FAV

2023 SESSION POSITION PAPER

BILL NO: SB 648

COMMITTEE: Senate Finance Committee

POSITION: SUPPORT

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

BILL ANALYSIS

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⁸ Organizations include the Electronic Healthcare Network Accreditation Commission (EHNAC, now part of DirectTrust) and the Health Information Trust Alliance (HITRUST).

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CRISP LOS SB648_2023-02-24.pdf

Uploaded by: Nicole Sweeney

Position: FAV



CRISP

February 24, 2023

The Honorable Melony G. Griffith
Chair, Senate Finance Committee
Miller Senate Office Building, 3 East Wing
11 Bladen St.
Annapolis, MD 21401

Dear Madam Chair Griffith:

On behalf of Chesapeake Regional Information System for our Patients (CRISP), the designated health information exchange (HIE) and health data utility (HDU) for Maryland, I am writing to express our support for SB648 pertaining to *Electronic Health Networks and Electronic Medical Records - Nursing Homes – Release of Records*.

SB648 will ‘authorize nursing homes that use an electronic health network (EHN) or electronic medical record (EMR) platform to direct these vendors to release patient records and other healthcare information to the nursing home’s business associates in such a way that the information conforms with certain specifications, is delivered timely, and is provided without restrictions, limitations, or associated fees.’ We at CRISP promote interoperability and support all efforts that allow data to flow freely and appropriately to health care providers, patients, and others dedicated to improving wellness and health outcomes, and SB648 is no exception.

Thank you for your consideration and the opportunity to express our support for SB648.

Sincerely,

Craig Behm
President & CEO
CRISP

Rifkin Testimony - SB 648.pdf

Uploaded by: Scott Rifkin

Position: FAV



Testimony Before the
Senate Finance Committee
March 1, 2023

Senate Bill 648: Electronic Health Records in Nursing Homes

Position – Support

On behalf of Real Time Medical Systems, and as a health care professional with over XX years of experience in the long term care environment, I want to express my strong support for Senate Bill 648. In addition, I would like to thank Senator Rosapepe for his interest in this critical issue facing vulnerable Marylanders that reside in long term care facilities. My support for this legislation emanates from my experience that includes serving as an internal medicine physician for over 20 years in Owings Mills; founding a skilled nursing home company that grew to over 20 buildings in 2 states; and, finally as the founder of Real Time Medical Systems, which integrates and analyzes the data derived from Electronic Medical Record Systems in nursing homes and provides real time response to scenarios that would lead to hospitalization if undetected.

I believe most members of the Committee know that nursing homes care for vulnerable and chronically ill patients with multiple co-morbidities. The population that depends on the care and services in most nursing homes skews toward minority and lower socio-economic individuals. It is essential that the nursing home be empowered to provide coordinated, multi-disciplinary care. Modern data mining tools, like Real Time Medical Systems, have been developed to look at patient data and guide staff in the early diagnosis and treatment of issues.

The State of Maryland has been groundbreaking in creating programs to help nursing facilities to use data to improve care. Under the leadership of the Health Services Review Commission, a recent test project, using nursing home electronic medical record (EHR) data, to prevent hospitalizations in Montgomery and Anne Arundel Counties, was a great success. The rate of hospitalization dropped by 25% and the total cost of care for this population dropped by 6%. These are stunning results. In response the state funded Maryland's Health Information Exchange (HIE) – CRISP – to create a statewide program modeled after the HSCRC test project. That new program went live in November. The early results showed a 40 percent drop in hospital admissions, which is critical to our hospitals under the Total Cost of Care contract. As of mid-February, over 100 nursing centers in Maryland have enrolled in the program and it is expected that virtually all will participate.

Nursing homes pay electronic medical records companies to be the steward of the patient's medical records. These costs are borne by the state of Maryland through Medicaid payments. These EHR's are electronic versions of the paper medical records that were used many years ago and incentivized by the federal government in the acute care setting. The data contained in that EHR belongs to the patient. Federal laws have been passed to protect a patient's record and make them available to all members of the care team. Unfortunately, some EHR companies have acted as if the data belongs to them and can be monetized to the detriment of the patient's right to care. The federal acts were written with unintended loopholes that are being exploited. It is our understanding that the US Senate will be looking at these issues again in the near future with an intent to protect patients.

Connecting Care Through Interventional Analytics

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In Maryland, the new CRISP program is potentially harmed by the behavior of nursing home focused EHR companies. This proposed legislation does not address hospital EHR companies, and rather is solely focused on the EHR's within the post-acute environment. The EHR companies have made data difficult to obtain. Federally required data transfers have been severely limited to the nature of the data available. For a more complete access to needed data, the EHR companies are attempting to block access unless exorbitant fees are paid. They also make the excuse that the needs of the users for easy access to the data causes an overload of their servers, which is a direct reference to one of the federal loopholes I mentioned previously. In fact, the real issue is anti-competitive behavior by EHR companies to supply inferior programs at a higher cost. (CRISP can address the nature of available products as they recently went through a competitive RFP process on this issue).

This bill is intended to support the continued success of the CRISP program that potentially saves \$200 million dollars for Maryland hospitals under the Maryland Total Cost of Care waiver. The bill establishes that chosen partners, following HIPAA regulations, should have unhindered access to patient information that is contained in the EHR. These programs are as much a part of the care team as doctors and nurses. The software is already paid for by the nursing homes and the state of Maryland. The data is inherently and legally owned by the patient for use by the medical team. It is essential that we not allow EHR companies to hold patient data hostage in the name of increased profits or the intention of eliminating breakthrough programs that they see as competition.

For these reasons, I respectfully request a favorable report from the Committee on Senate Bill 648.

Dr. Scott Rifkin, Founder and Executive Chairman

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Uploaded by: State of Maryland (MD)

Position: UNF



Board of Examiners of Long Term Care Administrators

Wes Moore, Governor · Aruna Miller, Lt. Governor · Laura Herrera Scott, M.D., M.P.H., Secretary

*Kelly Smith Friedman, LNHA, Board Chair – Ciara J. Lee, MS, Executive Director
4201 Patterson Avenue, Baltimore MD 21215 | Phone: 410-764-4750*

March 1, 2023

The Honorable Senator Melony Griffith
Chair, Finance Committee
3 East Miller Senate Office Building
Annapolis, MD 21401

RE: SB 648 – Electronic Health Networks and Electronic Medical Records – Nursing Homes – Release of Records – Letter of Concern

Dear Chair Griffith and Committee Members:

The Maryland State Board of Long-Term Care Administrators (the Board) submits this letter of concern for SB 648 – Electronic Health Networks and Electronic Medical Records- Nursing Homes – Release of Records.

SB 648 appears to authorize nursing homes that contract with electronic medical records (“EMR”) vendors or networks to direct those EMR vendors and networks to release the EMR and electronic healthcare transactions of the nursing homes’ residents to the businesses affiliated with the nursing homes. There are various healthcare providers and business who use the EMRs and healthcare transaction records to consult, or collaborate, with nursing homes to provide healthcare services to the nursing home residents, including medication prescribers, pharmacies, dietitians, occupational therapists, physical therapists, speech therapists, radiologists, laboratory services, etc.

At first glance, utilizing electronic medical records or electronic health networks encourages convenience for accessibility of data relative to nursing home residents for the affiliate providers and businesses. However, such accessibility has a high potential to introduce a multitude of problems and concerns. For instance, SB 648 seems to remove from the residents the authority to direct the release of their medical records and healthcare transaction information. Granting the authority for releasing the records outside the residents’ control increases the likelihood that the medical and transactional records will be at odds with the wishes of the residents and will escape the personal and careful attention that the residents pay to their records. This will thus also increase the risk that the sensitive information will not be as protected as it is currently and may create violations of the Health Insurance Portability and Accountability Act (HIPAA) and other rules and laws governing the confidentiality of medical records and information. Without further assurances as to how this widening of authority will not jeopardize the confidentiality of the records, the Board has concerns that the risk will increase that the residents will be subject to privacy and financial security violations.

For these reasons, the Maryland State Board of Long-Term Care Administrators urges an unfavorable report on SB 648.

I hope this information is useful. If you would like to discuss this further, please contact me at ciaraj.lee1@maryland.gov or (410) 764-4749.

Sincerely,

A handwritten signature in blue ink that reads "Ciara J. Lee". The signature is written in a cursive style with a large initial "C".

Ciara J. Lee, MS
Executive Director
Maryland State Board of
Long-Term Care Administrators

The opinion of the Board expressed in this letter of concern does not necessarily reflect that of the Department of Health or the Administration.