



Testimony Before the
House Health and Government Operations Committee
March 9, 2023
House Bill 786: Electronic Health Records in Nursing Homes

Position – Support

On behalf of Real Time Medical Systems, and as a health care professional with many years of experience in the long-term care environment, I want to express my strong support for House Bill 786. In addition, I would like to thank Delegate Guzzone for her 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.

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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 House Bill 786.

Dr. Scott Rifkin, Founder and Executive Chairman

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