



February 12, 2024
The Honorable Pamela Beidle
Chair, Finance Committee
3 East
Miller Senate Office Building
Annapolis, MD 21401

Dear Chair Beidle –

On behalf of the 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 concern for SB541 – *The Maryland Online Data Privacy Act of 2024*. Although we are advocates of data privacy, we believe that the bill language should be modified to exempt certain entities rather than just the information they might collect.

Specifically, §14-4603(B) exempts “protected health information under [the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”)],” but, unlike the exceptions in subsection (A) of the same section, does not exempt entities that are HIPAA-covered or their respective business associates, as defined by HIPAA. Without this change, covered entities and their business associates, like CRISP, would have to segment “health information” coming from covered entities and “health information” coming from non-covered entities like community-based organizations. This segmentation often results in incomplete data and a lack of coordinated care between health care providers and social services, further exacerbating disparities.

Therefore, we request that the Committee amend the bill to add the following section (4) to §14-4603(A):

(4) A covered entity or business associate of a covered entity as defined by HIPAA.

As a strong proponent of patient consent and privacy, CRISP supports the overall intent of this bill; however, since covered entities and their business associates are already highly regulated by HIPAA, we believe that, similar to the carve-outs for financial institutions subject to privacy regulations in section (A)(3) of the bill, the privacy concerns are addressed in HIPAA without the resulting issues of care coordination presented by the current draft of this bill.

Thank you for your consideration and the opportunity to express our concerns regarding the current language in SB541.

Best,

Nichole Ellis Sweeney, JD
CRISP General Counsel and Chief Privacy Office