



SB 678/HB 812 Electronic Health Networks and Electronic Medical Record Vendors of Nursing Homes – Release of Records - Enforcement

Position: Favorable

Real Time Medical Systems supports SB 678 which would add an explicit but narrow enforcement provision to legislation prohibiting information blocking of electronic medical records of nursing home patients.

In 2023, the Maryland General Assembly passed legislation in 2023 (SB 648) prohibiting the blocking of a patient's electronic medical record (EMR). That legislation was signed into law by the Governor and is similar to a federal law, the 21st Century Cures Act. Prior to passage of that state law, the Attorney General issued an advice letter -- in response to concerns over federal preemption -- stating the 2023 bill was consistent with both state and federal law and regulations. While the bill prohibited information blocking, it did not include an explicit enforcement provision.

Given that information blocking of these records continues, SB 678 seeks a narrowed enforcement provision against an EMR company in violation of state law. The legislation will also clarify that protected health information (PHI) must be shared "without delay" rather than "routinely" under current law.

EMR companies are already compensated for their services by providers, hospitals and nursing homes who contract with the EMR companies. Because of that, patient records should be available to nursing homes and their partners for the care and well-being of their patients. Delaying or blocking patient information impacts patients care, their health and medical outcomes.

Real Time Medical Systems was selected by Maryland's Health Information Exchange (HIE) – CRISP – to analyze nursing home patient data and provide information to the medical professionals in the nursing homes identifying potential health issues that might otherwise be overlooked. The goal of the program is to reduce hospitalizations by identifying health concerns early when patient outcomes are better. The current program has had measurable reductions in patient hospitalizations. However, that record of success is at risk from information blocking.

Moreover, since the federal law has been in place, the National Coordinator for Health Information Technology (ONC) has received over 1,000 claims of information blocking, so this is not an isolated issue in the state of Maryland, but unfortunately, is happening across the entire country. And, these are just the complaints that have been received by the ONC. To date, no

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enforcement action by the ONC has been released to the public, leaving great doubt as to whether any investigation or enforcement by ONC has occurred.

Given the current lack of enforcement at both the state and federal level, it is important that a narrow and explicit enforcement provision is added to Maryland law to ensure that patients' medical information is not blocked by EMR companies. For that reason, Real Time Medical Systems recommends a favorable report.

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