



October 2, 2023

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

The Honorable Joseline A. Pena-Melnyk  
Chair, Health and Government Operations Committee  
Room 241 Taylor House Office Building  
6 Bladen Street  
Annapolis, MD 21401

**Re: SB0786/CH0248, HB 812/CH0249 (4), 2023 – Health - Reproductive Health Services - Protected Information and Insurance Requirements (MASAR #14912)**

Dear Chair Griffith and Chair Pena-Melnyk:

The Maryland Health Care Commission (“Commission”) is submitting this letter as required by the above referenced law, which established protections for the disclosure of legally protected health care by health information exchange (HIE) and electronic health network (EHN) entities operating in Maryland. This is the first report required to be submitted quarterly in fiscal years 2024 and 2025 to the Senate Finance Committee and the House Health and Government Operations Committee and notes the Commission’s progress in developing supporting regulations.

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. The regulations seek to ensure privacy and security of protected health information while improving access to health records by treating providers and supporting public health goals. COMAR 10.25.07, *Certification of Electronic Health Networks and Medical Care Electronic Claims Clearinghouses*, provides for the certification of electronic health networks and medical care electronic claims clearinghouses that exchange electronic health care transactions between payers and health care providers in the State. These regulations provided the framework to support implementation of the law. The Commission released draft amendments to the regulations for informal public comment on September 22, 2023. Depending on the volume and nature of stakeholder comments, the Commission will take action on these proposed emergency regulations at its October 19 or November 16, 2023, meeting.

Approximately 29 EHNs and 16 HIEs must comply with the law by December 1, 2023. Since enactment of the law, the Commission has convened meetings with representatives from provider organizations and health IT developers, including Epic, Oracle/Cerner, Allscripts, Meditech and select health systems to discuss potential approaches to restricting the disclosure of legally protected

MHCC  
SB0786/CH0248, HB 812/CH0249 (4)  
(MASAR#14912)  
Page 2

health care, consisting of data on reproductive health services, medications, and supplies related to the provision of abortion care and other sensitive health services. Input received in addition to feedback from the Maryland Department of Health informed development of draft amendments to the regulations.

These regulations are consistent with the intent of SB 786/HB 812 and support broader privacy protections for all health care consumers using reproductive health services in Maryland. If you have any questions about this update, please do not hesitate to contact me at 410-764-3566 or [ben.steffen@maryland.gov](mailto:ben.steffen@maryland.gov) or Ms. Tracey DeShields, Director of Policy Development and External Affairs at [tracey.deshields2@maryland.gov](mailto:tracey.deshields2@maryland.gov) or 410-764-3588.

Sincerely,



Ben Steffen,  
Executive Director

cc:

President Bill Ferguson, Maryland General Assembly  
Speaker Adrienne A. Jones, Maryland General Assembly  
Senate Finance Committee Members  
House Health And Government Operations Committee Members  
Patrick Carlson, Senate Finance, Committee Counsel  
Erin Hopwood, House Health and Government Operations, Committee Counsel  
Sarah Albert, Department of Legislative Services (5 copies)  
David Sharp, Director, Center for Health Information Technology and Innovative Care Delivery  
MHCC  
Nicole Majewski, Chief, Health Information Technology, MHCC  
Tracey DeShields, Director, Policy Development and External Affairs, MHCC



January 2, 2024

The Honorable Pamela G. Beidle  
Chair, Senate Finance Committee  
James Senate Office Building, Room 202  
11 Bladen Street  
Annapolis, MD 21401

The Honorable Joseline A. Peña-Melnyk  
Chair, Health and Government Operations Committee  
Taylor House Office Building, Room 241  
6 Bladen Street  
Annapolis, MD 21401

**Re: SB0786/CH0248, HB 812/CH0249 (4), 2023 – Health - Reproductive Health Services - Protected Information and Insurance Requirements (October – December 2023 Report) (MASAR #14912)**

Dear Chair Beidle and Chair Peña-Melnyk:

The Maryland Health Care Commission (“Commission”) is submitting this letter as required by the above-referenced law (“law”) to the Senate Finance Committee and the House Health and Government Operations Committee. This is a follow-up from our initial letter, dated September 27, 2023, describing the Commission’s progress in developing emergency regulations as required by the law. COMAR 10.25.18, *Health Information Exchanges: Privacy and Security of Protected Health Information* and COMAR 10.25.07, *Certification of Electronic Health Networks and Medical Care Electronic Claims Clearinghouses* (collectively “regulations”), are existing regulatory frameworks to support implementation.

The Commission notified around 160 stakeholders about the informal release of draft amendments to the regulations; approximately 133 comments from 17 organizations were received. The Commission considered the comments in modifying the draft amendments. The Commission approved the emergency and proposed permanent regulations at its November meeting; proposed permanent regulations are anticipated to be published in the January 12<sup>th</sup> issue of the Maryland Register. The regulations align with the Maryland Department of Health’s (MDH) emergency regulations, COMAR 10.11.08, *Abortion Care Disclosure*, which require health information exchange (“HIE”) and electronic health network (“EHN”) entities operating in Maryland to restrict the disclosure of select medical diagnosis codes, current

procedural terminology codes, and medication codes related to protected reproductive health care services (“legally protected health information”).

The regulations require HIEs and EHNs operating in Maryland to submit to the Commission by January 8, 2024, an affirmation that it possesses the technical capability to restrict disclosure of legally protected health information or an implementation plan (“plan”). The plan must include a detailed description of the steps the HIE is taking to ensure compliance of the regulations by June 1, 2024; a timeline to implement the requirements; and a description of the extent that legally protected health information will be restricted through the HIE during the implementation of its plan. The Commission has flexibility in administering the regulations and will consider an HIE’s plan and reported progress by April 1, 2024, and its readiness to support the law on June 1, 2024, when determining whether to assess penalties for non-compliance or issue a waiver for certain requirements in the regulations.

The Commission convened Town Halls with representatives from HIEs and EHNs, and invited representatives from health professional associations, payers, and MDH to attend. The Town Halls provided an opportunity for HIEs and EHNs to ask questions and identify policy considerations for restricting the disclosure of legally protected health information. A policy guidance document to support implementing the law is targeted for release in late January.

Several HIEs have reported favorable progress in restricting from disclosure the codes included in MDH’s emergency regulations. HIEs generally note that more time is needed to implement technology that efficiently blocks text-based legally protected health information. The Commission will work with the legislature if it chooses to make changes in the law.

If you have any questions about this update, please do not hesitate to contact me at 410-764-3566 or [ben.steffen@maryland.gov](mailto:ben.steffen@maryland.gov) or Ms. Tracey DeShields, Director of Policy Development and External Affairs at [tracey.deshields2@maryland.gov](mailto:tracey.deshields2@maryland.gov) or 410-764-3588.

Sincerely,



Ben Steffen,  
Executive Director

cc: President Bill Ferguson, Maryland General Assembly

Speaker Adrienne A. Jones, Maryland General Assembly  
Laura Herrera Scott, Secretary, Maryland Department of Health  
Marie Grant, Assistant Secretary, Health Policy, Maryland Department of Health  
Shelly Choo, Director, Maternal and Child Health Bureau, Maryland Department of Health  
Senate Finance Committee  
House Health and Government Operations Committee  
Jonny Dorsey, Deputy Chief of Staff, Governor's Office  
June Chung, Deputy Legislative Office, Governor's Legislative Office  
Jason Heo, Governor's Office  
Sophie Bergmann, Governor's Office  
Senate Finance Committee Members  
House Health And Government Operations Committee Members  
Patrick Carlson, Senate Finance, Committee Counsel  
Erin Hopwood, House Health and Government Operations, Committee Counsel  
Sarah Albert, Department of Legislative Services (5 copies)  
David Sharp, Director, Center for Health Information Technology and Innovative Care  
Delivery MHCC  
Nicole Majewski, Chief, Health Information Technology, MHCC  
Tracey DeShields, Director, Policy Development and External Affairs, MHCC



January 9, 2024

The Honorable Guy Guzzone, Chairman,  
Senate Budget and Taxation Committee  
3 West Miller Senate Office Building  
Annapolis, Maryland 21401-1991

The Honorable Ben Barnes, Chairman,  
House Appropriations Committee  
121 House Office Building  
Annapolis, Maryland 21401-1991

**Re: JCR Report – 2023 \_ p133\_ MHCC – Financial Restrictions on Access to Organ Transplant Lists**

Dear Chairman Guzzone and Chairman Barnes:

The Maryland Health Care Commission (“Commission”) is submitting this letter as required by the 2023 JCR page 133 to the Senate Budget and Taxation Committee and the House Appropriations Committee describing the Commission’s progress in developing emergency regulations and on their submission to the Joint Committee on Administrative, Executive, and Legislative Review. COMAR 10.25.18, *Health Information Exchanges: Privacy and Security of Protected Health Information* and COMAR 10.25.07, *Certification of Electronic Health Networks and Medical Care Electronic Claims Clearinghouses* (collectively “regulations”), are existing regulatory frameworks to support implementation.

The Commission notified around 160 stakeholders about the informal release of draft amendments to the regulations; approximately 133 comments from 17 organizations were received. The Commission considered the comments in modifying the draft amendments. The Commission approved the emergency and proposed permanent regulations at its November meeting; proposed permanent regulations are anticipated to be published in the January 12<sup>th</sup> issue of the Maryland Register. The regulations align with the Maryland Department of Health’s (MDH) emergency regulations, COMAR 10.11.08, *Abortion Care Disclosure*, which require health information exchange (“HIE”) and electronic health network (“EHN”) entities operating in Maryland to restrict the disclosure of select medical diagnosis codes, current procedural terminology codes, and medication codes related to protected reproductive health care services (“legally protected health information”).

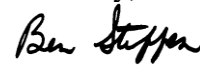
The regulations require HIEs and EHNs operating in Maryland to submit to the Commission by January 8, 2024, an affirmation that it possesses the technical capability to restrict disclosure of legally protected health information or an implementation plan (“plan”). The plan must include a detailed description of the steps the HIE is taking to ensure compliance of the regulations by June 1, 2024; a timeline to implement the requirements; and a description of the extent that legally protected health information will be restricted through the HIE during the implementation of its plan. The Commission has flexibility in administering the regulations and will consider an HIE’s plan and reported progress by April 1, 2024, and its readiness to support the law on June 1, 2024, when determining whether to assess penalties for non-compliance or issue a waiver for certain requirements in the regulations.

The Commission convened Town Halls with representatives from HIEs and EHNs, and invited representatives from health professional associations, payers, and MDH to attend. The Town Halls provided an opportunity for HIEs and EHNs to ask questions and identify policy considerations for restricting the disclosure of legally protected health information. A policy guidance document to support implementing the law is targeted for release in late January.

Several HIEs have reported favorable progress in restricting from disclosure the codes included in MDH’s emergency regulations. HIEs generally note that more time is needed to implement technology that efficiently blocks text-based legally protected health information. The Commission will work with the legislature if it chooses to make changes in the law.

If you have any questions about this update, please do not hesitate to contact me at 410-764-3566 or [ben.steffen@maryland.gov](mailto:ben.steffen@maryland.gov) or Ms. Tracey DeShields, Director of Policy Development and External Affairs at [tracey.deshields2@maryland.gov](mailto:tracey.deshields2@maryland.gov) or 410-764-3588.

Sincerely,



Ben Steffen,  
Executive Director

cc:

The Honorable Bill Ferguson, President, Senate

The Honorable Adrienne A. Jones, Speaker, House of Delegates

The Honorable Laura Herrera Scott, Secretary, Maryland Department of Health

Marie Grant, Assistant Secretary, Health Policy, Maryland Department of Health

Senate Budget and Taxation Committee Members

House Appropriations Committee Members

Kimberly Landry, Committee Manager, Senate Budget and Taxation Committee

Carole Smith, Assistant to Chair, House Appropriations Committee

Jonny Dorsey, Deputy Chief of Staff, Governor's Office

June Chung, Deputy Legislative Office, Governor's Legislative Office

Jason Heo, Governor's Office

Sophie Bergmann, Governor's Office

Sarah Albert, Department of Legislative Services (5 copies)

David Sharp, Director, Center for Health Information Technology and Innovative Care  
Delivery MHCC

Nicole Majewski, Chief, Health Information Technology, MHCC

Tracey DeShields, Director, Policy Development and External Affairs, MHCC