



Implementing Protections for Reproductive Health – Update

May 15, 2025

Background – State Law

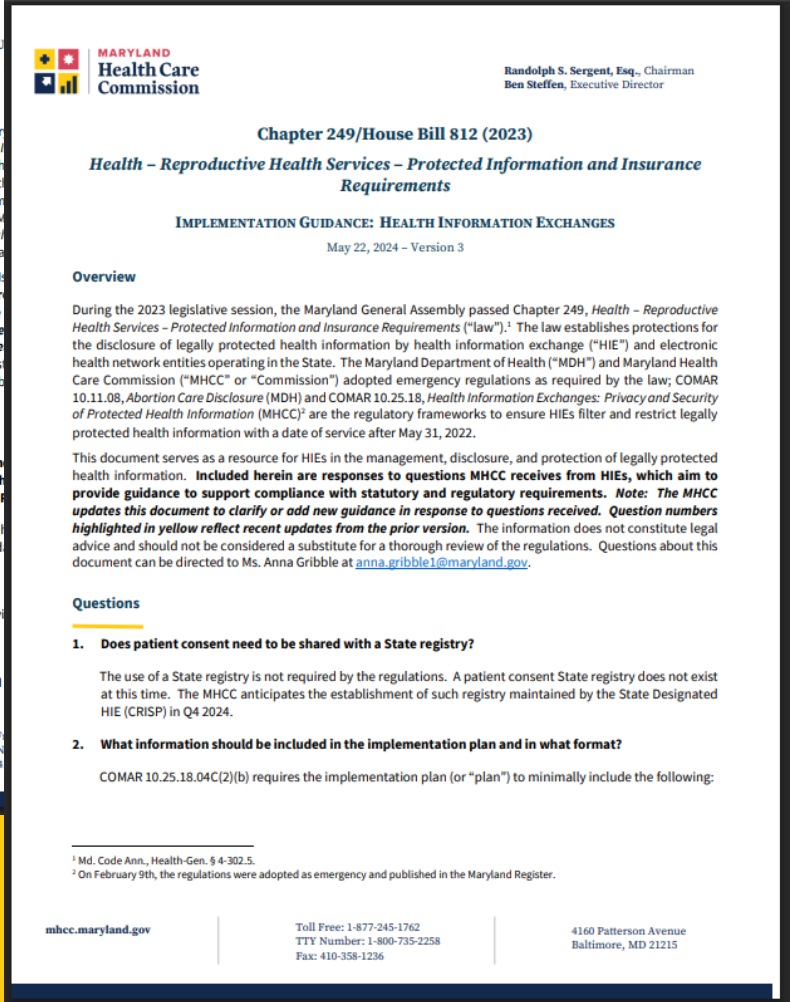


- ▶ During the 2023 legislative session, the General Assembly passed Chapter 249 (House Bill 812), *Health – Reproductive Health Services – Protected Information and Insurance Requirements* (law)
- ▶ Establishes protections for the disclosure of legally protected health care by electronic health network (EHN) and health information exchange (HIE) entities (vendors) operating in the State (see appendix for more information about HIE and EHNs)
 - Includes mifepristone data and the diagnosis, procedure, medication, and other codes related to abortion care (referred to as “legally protected health information” or “LPHI”)
- ▶ Requires a Protected Health Care Commission with certain representation (see appendix) to make recommendations to the Secretary regarding sensitive health services that should be determined by the Secretary to be LPHI; staffed by the Maryland Department of Health (MDH)
- ▶ Allows fines for noncompliance (not to exceed \$10,000 per day)
- ▶ Requires MHCC to provide quarterly implementation updates to the Senate Finance Committee and House Health and Government Operations Committee in FY 2024 and 2025

Regulatory Frameworks



- ▶ The MHCC and MDH adopted supporting regulations as required by law
- ▶ MHCC amended existing regulatory frameworks for EHNs and HIEs; COMAR 10.25.07, *Certification of Electronic Health Networks and Medical Care Electronic Claims Clearinghouses* and COMAR 10.25.18, *Health Information Exchanges: Privacy and Security of Protected Health Information* (see appendix for more background information on the timeline)
 - Includes provisions for EHNs and HIEs to report on the status of developing and implementing technical capabilities to prevent the release of LPHI with a date of service after May 31, 2022
- ▶ MDH adopted COMAR 10.11.08, *Abortion Care Disclosure*
 - Specifies the codes that encompass LPHI and are subject to restrictions for disclosure



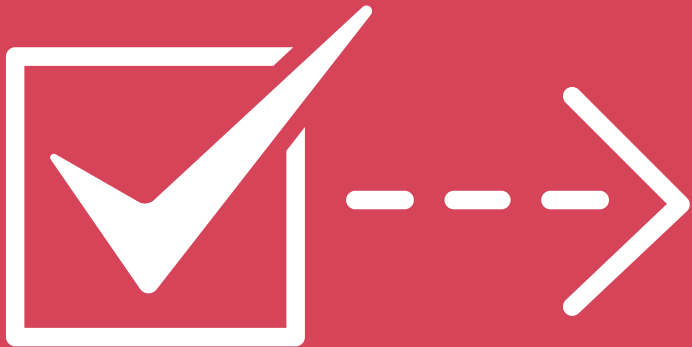
Implementation Guidance for EHNs and HIEs

- ▶ Implementation guidance clarifies regulatory requirements based on stakeholders' questions
 - Serves as a resource for the management and protection of LPHI codes and related text and facilitating exchange of LPHI when direct consent is provided



Where We Are Today

- ▶ Vendors continue to make notable progress to develop and implement technical solutions and policies for LPHI
 - Nearly all EHNs operating in the State fall under the permitted disclosure of LPHI in law “for the adjudication of claims”
- ▶ Vendors remain concerned about the legislative decision to not impose compliance requirements on providers
- ▶ Most vendors will have the technical capability to block the required codes by the end of this year; more development time is needed to restrict text-based LPHI (non-structured data) and facilitate the exchange of LPHI if direct consent is obtained



Reporting on Implementation

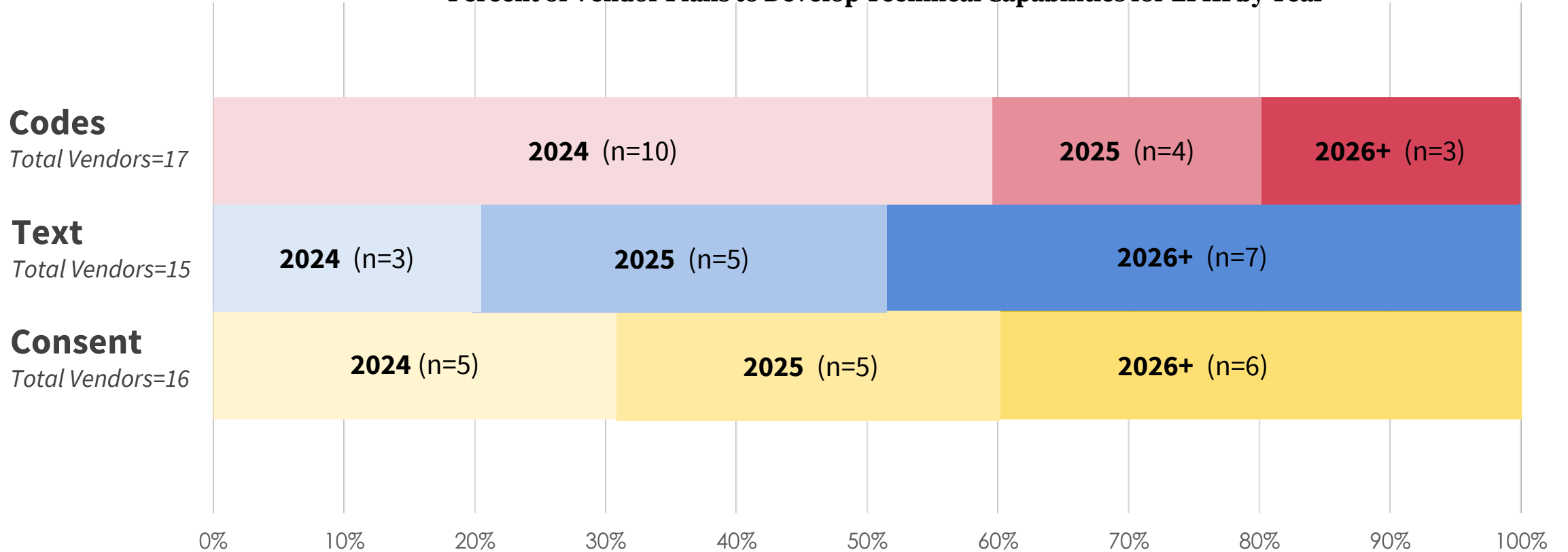


- ▶ Vendors have complied with reporting on the implementation of LPHI requirements consistent with the regulations
- ▶ Vendors submit ongoing implementation updates at least bi-annually to report on progress to filter and restrict LPHI codes and related text and allow the exchange of LPHI to a specific treating provider via direct consent
 - Vendor implementation timelines largely remain on track; two vendors submitted timeline adjustments in March 2025
- ▶ In December 2024, MHCC granted 12-month exemptions to HIEs operating in Maryland, consistent with COMAR 10.25.18.09H

Vendor Compliance Snapshot *as of March 2025*



Percent of Vendor Plans to Develop Technical Capabilities for LPHI by Year



Notes: Coloring by year is for illustrative purposes only; see appendix for information on compliance timelines by vendor; total number of vendors required to develop each technical capability varies based on services offered by each vendor



Compliance Timelines by Vendor for Developing LPHI Capabilities

as of March 2025

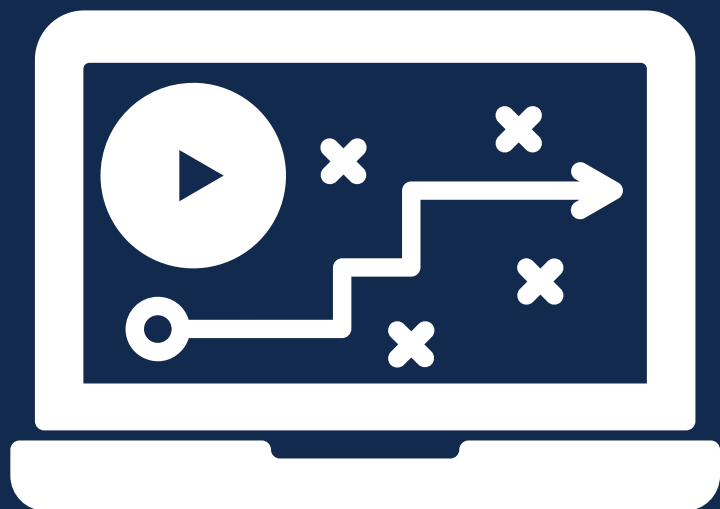
#	Vendors	Codes (N=17)			Text (N=15)			Consent (N=16)			Year Compliant
		2024	2025	2026+	2024	2025	2026+	2024	2025	2026+	
1	Change	✓			—	—	—	—	—	—	2024
2	Epic	✓			✓			✓			2024
3	EpicNexus	✓			✓			✓			2024
4	eClinicalWorks		✓			✓			✓		2025
5	Meditech	✓				✓			✓		2025
6	ModMed		✓			✓			✓		2025
7	Oracle/Cerner		✓			✓			✓		2025
8	Altera	✓				✓				✓	2026+
9	AthenaHealth			✓			✓			✓	2026+
10	CRISP	✓					✓	✓			2026+
11	DHIN	✓					✓	✓			2026+
12	Flatiron	✓					✓	✓			2026+
13	Greenway		✓				✓		✓		2026+
14	NextGen	✓			✓					✓	2026+
15	PointClickCare			✓			✓			✓	2026+
16	Veradigm			✓			✓			✓	2026+
17	Surescripts	✓			—	—	—			✓	2026+
Total		10 (59%)	4 (24%)	3 (18%)	3 (20%)	5 (33%)	7 (47%)	5 (31%)	5 (31%)	6 (38%)	

Notes: A checkmark (✓) represents the LPHI capability is available; a dash (—) represents the LPHI requirement is not applicable based on the vendor's business model (i.e., Change and Surescripts); percentages for codes do not total 100 due to rounding.

Challenges



- ▶ Most vendors report challenges in implementing the necessary technical capabilities to prevent the release of unstructured text-based LPHI and sharing LPHI to a specific treating provider when consent is offered
- ▶ Provider organizations need an additional 12-24 months once the technology is made available to install necessary software upgrades and test the technology
 - Various health systems and ambulatory practices have highlighted apprehensions about deploying software without systematic review for potential deficiencies; some clients report waiting a year or more after an upgrade is released before installing



Epic

Sasha TerMaat

Staff Activities



- ▶ Continue to monitor vendors' progress to develop and implement the necessary technical capabilities for LPHI and identify if additional MHCC interventions may be needed
- ▶ Provide consultative support to vendor and provider organizations and update vendor implementation guidance as needed
- ▶ Engage stakeholders to identify compliance challenges and potential solutions
 - HIMSS Electronic Health Record Association
- ▶ Submit quarterly implementation updates to the legislature (one remaining for Q2, 2025)
- ▶ Assess ongoing need for time-limited exemptions

Thank you
Questions?





Appendix

About Health Information Exchanges



- ▶ HIEs determine, control, or have the discretion to administer any requirement, policy, or agreement that allows, enables, or requires the use of any technology or services for access, exchange, or use of electronic protected health information*
 - Inclusive of regional entities and developers of health information technology, such as electronic health record (EHR) vendors
- ▶ Entities operating in Maryland that meet the statutory definition of an HIE are required to register with MHCC

** Health-General Article §4-301(i), Annotated Code of Maryland*

About Electronic Health Networks



- ▶ EHNs exchange electronic health care administrative transactions (e.g., claims, referrals, authorizations, remittances) between payers, providers, and other entities to increase efficiencies in health care operations and reduce administrative costs
 - Includes verifying the accuracy of data submitted, reporting on errors identified, and formatting transactions to align with HIPAA standards
 - Payers that accept electronic health care transactions originating in Maryland are required to accept transactions only from MHCC certified EHNs

Protected Health Care Commission (PHCC)



- ▶ The law requires PHCC to issue semi-annual reports to the Secretary identifying sensitive health services and include an assessment of potential risks to patients and health care providers that would result from the disclosure of the identified sensitive health services
 - Within 60 days, the Secretary will include findings and determinations in a written response to the PHCC, Senate Finance Committee, and House Health and Government Operations Committee
- ▶ Membership includes the Attorney General or designee, MHCC Executive Director or designee, specific appointments from the Secretary, licensed physician nominated by the American College of Obstetricians and Gynecologists, licensed clinician who provides reproductive health care nominated by the Reproductive Health Access Project, certified nurse-midwife nominated by the Maryland affiliate of the American College of Nurse Midwives, a representative of Physicians for Reproductive Health, two consumer representatives with expertise in consumer data privacy, and an individual with expertise in health information

MHCC Regulations Background – Timeline



- ▶ **September 22, 2023** – MHCC released draft amendments to the regulations for informal public comment
- ▶ **November 16, 2023** – Emergency and proposed permanent regulations were approved by MHCC and submitted to the Joint Committee on Administrative, Executive, and Legislative Review
- ▶ **January 12, 2024** – Proposed amendments to COMAR 10.25.07 and COMAR 10.25.18 were published in the Maryland Register with a 30-day formal public comment period
- ▶ **February 9, 2024** – Emergency regulations were published in the Maryland Register effective January 11 – July 9, 2024 (COMAR 10.25.07) and January 9 – July 7, 2024 (COMAR 10.25.18)
- ▶ **May 3, 2024** – Final regulations were published in the Maryland Register with an effective date of May 13, 2024

Stakeholder Collaboration

A Key Implementation Component

