



Maryland
Hospital Association

February 12, 2024

Anna Gribble
Program Manager
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, MD 21215

Re: Comments on Proposed Amendments to COMAR 10.25.18

Dear Ms. Gribble:

On behalf of the Maryland Hospital Association's (MHA) member hospitals and health systems, we appreciate the opportunity to comment on the Maryland Health Care Commission's (MHCC) proposed amendments to COMAR 10.25.18 Health Information Exchanges: Privacy and Security of Protected Health Information. These amendments effectuate House Bill (HB) 812, which was passed during the 2023 General Assembly legislative session to protect Maryland's reproductive health care providers and their patients—especially those from states that criminalize certain procedures that are permitted in Maryland.

MHA recognizes the importance of keeping our obstetricians, gynecologists, certified nurse midwives, labor and delivery nurses, and all other reproductive health providers safe from prosecution for performing services that comport with clinical standards of care. We appreciate the intent behind HB 812 and the amendments to COMAR 10.25.18, but we ask MHCC to ensure any information protections put in place by health information exchanges (HIE) do not impact patient safety or add administrative burdens on providers.

In the spirit of cooperation, we hope MHCC will serve as a transparent convener for hospitals and HIE vendors to discuss the implementation of this law. We thank MHCC for its decision, as described in the *Implementation Guidance: Health Information Exchanges* (January 26, 2024), to make public all implementation plans submitted by HIE vendors. However, we ask MHCC to create a space for all HIE vendors working with hospitals and health systems to discuss any concerns going forward, especially as vendors begin operationalizing their implementation plans. Maryland hospitals are concerned with proposals from their electronic health records (EHR) vendors, which do not comport with the statutory requirements and jeopardize patient safety.



We appreciate MHCC’s stance that “blocking records that contain legally protected health information [does not comply] with the intent of the law.”¹ **We suggest also adding language to minimize clinician burden when designing the programs intended to protect health information and denying any implementation plans that require providers to take active steps during and/or after the patient visit.** For example, programs to separate protected health information should not require additional steps that detract from the clinician’s face-to-face interaction with the patient (e.g., requiring the provider to open new programs, windows, or other interruptions to existing workflows). Any measures to specifically protect reproductive information should be performed automatically by the HIE.

We also ask MHCC to take the rolling nature of system updates into account when assessing the acceptability and operationalization of vendors’ implementation plans. EHR systems often phase in system updates over a lengthy period. Even if hospitals have the same vendor, an update for one hospital that rolls out in June 2024 does not mean it is ready for operationalization at another hospital. Additionally, given the rushed timeline for vendors to create these new measures, any operational bugs or errors may need to be addressed before more widespread adoption in the hospital field. For these reasons, we hope MHCC will exercise regulatory discretion when assessing HIE (and indirectly, provider) compliance with the law.

We look forward to our continued partnership and collaboration on these regulations. Please contact me or my colleague Diana Hsu (dhsu@mhaonline.org) if you have any further questions or concerns.

Sincerely,

A handwritten signature in blue ink that reads "Erin M. Dorrien".

Erin Dorrien
Vice President, Policy

¹ Maryland Health Care Commission. “Chapter 249/House Bill 812 (2023), Health – Reproductive Health Services – Protected Information and Insurance Requirements, Implementation Guidance: Health Information Exchanges.” mhcc.maryland.gov/mhcc/pages/hit/hit_hie/documents/HIE_Guidance_012624.pdf (accessed February 12, 2024).