

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 489
Health

(Delegate Kerr)

Electronic Health Networks and Electronic Medical Record Vendors of Nursing
Homes - Release of Records - Fees

This bill repeals the current prohibition on an electronic health network (EHN) or electronic medical record (EMR) vendor contracted with a nursing home from charging a fee for the release of patient medical records or electronic health care transactions in specified circumstances. Thus, an EHN or EMR vendor may charge a fee when a nursing home directs them to release patient medical records or electronic health care transactions to a business associate.

Fiscal Summary

State Effect: The bill does not directly affect governmental operations or finances.

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Current Law: If a nursing home contracts with or uses an EHN or EMR vendor, the nursing home may direct the vendor to release patient medical records or electronic health care transactions to a business associate of the nursing home.

Under federal regulations (45 CFR § 160.103), “business associate” includes (1) a health information organization, electronic prescribing gateway, or other person that provides data transmission services with respect to protected health information to a covered entity; (2) a person that offers a personal health record to one or more individuals on behalf of the

covered entity; and (3) a subcontractor that creates, receives, maintains, or transmits protected health information on behalf of the business associate.

An EHN or EMR vendor releasing patient medical records or electronic health care transactions:

- must release the records or transactions in an electronic format that conforms to certain specifications;
- must make the records or transactions available on a regular basis and release the information in a timely manner to support patient care and monitoring; and
- may not restrict, limit, or charge a fee for the release of the records or transactions.

Electronic Sharing of Health Information

The Maryland Health Care Commission (MHCC) designated the Chesapeake Regional Information System for Our Patients (CRISP) as the statewide health information exchange (HIE) in 2009, and the infrastructure became operational in 2010. An HIE allows clinical information to move electronically among disparate health information systems. CRISP offers tools aimed at improving the facilitation of care for the region's health care providers. Pursuant to Chapters 790 and 791 of 2021, a nursing home, on request of the Maryland Department of Health, must electronically submit clinical information to CRISP.

An EHN is an entity (1) involved in the exchange of electronic health care transactions between a payor, health care provider, vendor, and any other entity and (2) certified by MHCC. Electronic health care transactions are health care transactions that have been approved by a nationally recognized health care standards development organization to support health care informatics, information exchange, systems integration, and other health care applications.

An EHN must provide electronic health care transactions to CRISP for the following public health and clinical purposes: (1) a State health improvement program; (2) mitigation of a public health emergency; and (3) improvement of patient safety. An EHN may not charge a fee to a health care provider, health care payor, or CRISP for providing the required information.

Nationally, the electronic transmission and sharing of health information is governed by the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA). HIPAA requires the U.S. Secretary of Health and Human Services to establish standards for electronic health transactions, including claims, enrollment, eligibility, payment, and coordination of benefits. These standards also must address the security of electronic health information systems.

Small Business Effect: Small business EHNs or EMR vendors may collect fees from a nursing home with which they contract when directed to release patient medical records or electronic health care transactions to a business associate of the nursing home.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Maryland Department of Health; Department of Legislative Services

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jg/jc

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