

September 6, 2023

Ben Steffen, Executive Director
Maryland Health Care Commission
4160 Patterson Avenue
Baltimore, MD 21215

RE: Concerns Regarding the Implementation of SB 0786

Dear Executive Director Steffen and the Maryland Health Care Commission,

The HIMSS Electronic Health Record (EHR) Association is pleased to have an opportunity to provide feedback on Senate Bill 0786: Health - Reproductive Health Services - Protected Information and Insurance Requirements.

As the national trade association of EHR developers, EHR Association member companies serve the vast majority of hospital, post-acute, specialty-specific, and ambulatory healthcare providers using EHRs and other health IT across the United States. Together, we work to improve the quality and efficiency of care through the adoption and use of innovative, interoperable, and secure health information technology.

SB 0786 restricts Health Information Exchanges (HIEs) from exchanging sensitive reproductive health information effective December 2023. Under separate legislation and regulation, the definition of HIEs includes Health IT developers of Certified Electronic Health Record Technology (CEHRT) that develop or offer Health IT and have one or more Health IT modules certified under ONC's Health IT Certification program. This means that EHR Association members operating in Maryland are considered HIEs and required to meet the restrictions of SB 0786.

Unfortunately, the new Maryland legislation does not align with the current capabilities of electronic health records in use in Maryland, and there is insufficient time between the enactment of this law and the December 1, 2023, effective date for the development of new features. The Maryland Health Care Commission included several but not all health IT developers and their clients in meetings about the requirements of SB 0786, so we believe the MHCC team should also have an understanding that the required functionality is not currently available for users.

The EHR Association has long explained to regulators at the Federal and State levels that 18-24 months should be allowed for the development of new EHR features after standards for that development have reached sufficient maturity for adoption. The current timeline allows for six months between the enactment of SB 0786 and required compliance. Even with the additional few months before penalties begin, this is not adequate time. Additionally, data segmentation and consent standards such as might be used for Maryland's goal of restricting the sharing of sensitive reproductive health information have not reached

AdvancedMD	eClinicalWorks	Flatiron Health	MEDITECH, Inc.	Oracle Cerner
Allscripts	Elekta	Foothold Technology	Modernizing Medicine	PointClickCare
Altera Digital Health	eMDs – CompuGroup Medical	Greenway Health	Netsmart	Sevocity
Athenahealth	EndoSoft	Harris Healthcare	Nextech	STI Computer Services
BestNotes	Epic	MatrixCare	NextGen Healthcare	TenEleven Group
CPSI	Experity	MEDHOST	Office Practicum	Varian – A Siemens Healthineers Company

sufficient maturity through the industry's standards adoption process at this time. The 18-24 month time period necessary for the development, testing, and implementation of these functionalities and standards cannot begin until that work is complete; the State should seek to work with standards development organizations and other industry stakeholders to help drive sufficient maturity for these standards to support these use cases.

The EHR Association provided feedback to ONC earlier this year on the future direction of data segmentation and consent standards in our public comments on the HTI-1 Proposed Rule (see [link](#)). We encourage the Maryland Health Care Commission to consider updates to the requirements or the creation of a learning period without penalty. We have historically requested an opportunity for the Association's membership to discuss how the health IT community can effectively work with the MHCC toward regulations that reflect the reality of health IT's technological capabilities; we would still welcome the chance to discuss our recommendations on this future direction with the Commission. The Association's leadership can be reached by contacting Kasey Nicholoff at knicholoff@ehra.org, who can help identify a time that will work for all stakeholders. Thank you for your consideration and please let us know if we can expand on any of these concerns for you.

Sincerely,

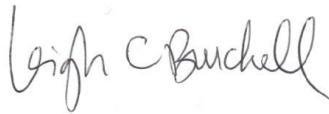


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Chair, EHR Association
Foothold Technology



William J. Hayes, M.D., M.B.A.
Vice Chair, EHR Association
CPSI

HIMSS EHR Association Executive Committee



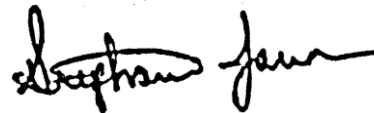
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Altera Digital Health



Barbara Hobbs
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Cherie Holmes-Henry
NextGen Healthcare



Stephanie Jamison
Greenway Health



Ida Mantashi
Modernizing Medicine



Kayla Thomas
Oracle Cerner

Established in 2004, the Electronic Health Record (EHR) Association is comprised of 31 companies that supply the vast majority of EHRs to physicians' practices and hospitals across the United States. The EHR Association operates on the premise that the rapid, widespread adoption of EHRs will help improve the quality of patient care as well as the productivity and sustainability of the healthcare system as a key enabler of healthcare transformation. The EHR Association and its members are committed to supporting safe healthcare delivery, fostering continued innovation, and operating with high integrity in the market for our users and their patients and families. The EHR Association is a partner of HIMSS. For more information, visit www.ehra.org.