

MedChi

The Maryland State Medical Society

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TO: The Honorable Thomas M. Middleton, Chairman
Members, Senate Finance Committee
The Honorable James Rosapepe

FROM: Joseph A. Schwartz, III
Pamela Metz Kasemeyer
J. Steven Wise

DATE: February 23, 2011

RE: **SUPPORT WITH AMENDMENT** – Senate Bill 722 – *Electronic Health Records – Incentives for Health Care Providers – Regulations*

The Maryland State Medical Society (MedChi), which represents over 7,300 Maryland physicians and their patients, supports Senate Bill 722 with amendment.

Senate Bill 722 makes certain changes to legislation and implementing regulations concerning Electronic Health Records (EHR). In 2009, Maryland enacted landmark legislation which required state regulated payers to provide incentives to “health care providers” for the adoption of electronic health records. The 2009 legislation called for regulations to be proposed by the Maryland Health Care Commission (MHCC) and such regulations were proposed in 2010 but have not yet been adopted. However, these proposed regulations exclude many doctors from the incentive program and, moreover, allow insurance carriers the manner in which incentives would be granted.

Senate Bill 722 mandates that the doctor (not the insurance carrier) could choose the form of the incentive. Specifically, it allows the doctor to be paid “up front” in cash. Many physicians, particularly the small primary care practices, targeted by the 2009 law require cash in order to pay for the EHR systems in the first instance. Paying a doctor for using such a system is not much help if the doctor cannot obtain an EHR system in the first place.

The second change made by Senate Bill 722 is to allow **all** doctors and, for that matter, nurse practitioners, to be eligible for incentives. The proposed regulations limit the doctors who qualify for the incentives as a “family, general, geriatric, internal

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medicine, pediatric, or gynecological practice...” Multiple specialties are, therefore, excluded as are any doctors in a “hospital owned” practice.

Finally, Senate Bill 722 appropriately exempts staff model HMOs (Kaiser Permanente) from this program. Kaiser already provides EHR to its doctors and there is no need to create an incentive program for Kaiser exclusive doctors. It appears, however, that the bill’s language is too broad and would exempt doctors who are not exclusive to Kaiser. An amendment to correct this is attached.

Maryland’s 2009 law was landmark legislation. MedChi believes that the proposed regulations frustrate the General Assembly’s purpose in enacting that law. Insurance carriers will be financial beneficiaries of an EHR law and it proper and necessary for them to provide the necessary financing for the implementation of EHR systems.

MedChi would urge a favorable report on Senate Bill 722.

For more information call:
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Proposed Amendments to HB 736/SB 722

On page 2, in lines 7-9, strike ‘OTHER THAN A GROUP MODEL HEALTH MAINTENANCE ORGANIZATION AS DEFINED IN §19-713.6 OF THIS TITLE;’

On page 5, after line 22, insert:

“NOTHING IN THIS SECTION REQUIRES A GROUP MODEL HEALTH MAINTENANCE ORGANIZATION, AS DEFINED IN §19-713.6 OF THIS TITLE, TO PROVIDE ANY INCENTIVE TO A HEALTH CARE PROVIDER WHO IS EMPLOYED BY THE MULTISPECIALTY GROUP OF PHYSICIANS WITH WHICH THE GROUP MODEL HEALTH MAINTENANCE ORGANIZATION CONTRACTS.”