

MedChi

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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: March 10, 2011

RE: **SUPPORT WITH AMENDMENTS** – Senate Bill 723 – *Medical Records –
Health Information Exchanges*

The Maryland State Medical Society (MedChi), which represents over 7,300 Maryland physicians and their patients, supports Senate Bill 723 with amendments.

Senate Bill 723 makes several changes which will ensure the ultimate success of Maryland's Health Information Exchange (Exchange). The Exchange will serve as the "backbone" of Maryland's emerging Electronic Health Records (EHR) technology. EHR holds the promise of better and more complete medical care for all Maryland citizens.

Senate Bill 723 addresses several critical issues for the Exchange. First, all insurance companies that are using EHR are required to connect to the Exchange (page 6, lines 5 through 12). Additionally, the bill provides that the existence of the information on the Exchange does not change the standard of care applicable to a doctor in treating a patient (page 6, lines 24 thru 25). This is important so a doctor is not held liable for health information of which he was unaware at the time of treatment.

Senate Bill 723 attempts to protect the privacy of protected health information on the Exchange by providing that the Maryland Health Care Commission may adopt regulations for the privacy and security of such information (page 5, lines 11 thru 27). In this respect, MedChi believes that Senate Bill 723 is very deficient. MedChi believes that

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page 5, lines 18 thru 19 should be stricken and replaced with the following language:
“(B) NEITHER THE MARYLAND HEALTH CARE COMMISSION NOR THE EXCHANGE MAY ADOPT REGULATIONS OR POLICIES WHICH ALLOW FOR THE SALE OR LICENSING OF PROTECTED HEALTH INFORMATION OBTAINED BY A HEALTH INFORMATION EXCHANGE.”

MedChi believes that health data has considerable commercial value even where it has been “scrubbed” of personal identification. Government entities such as the Exchange should not be in the business of the licensing or sale for commercial use of such information, even when “scrubbed.” Rather, the government agencies should only use such information for research and policy purposes. The MedChi amendment will insure that the privacy of this health information is protected into the future.

With this amendment, MedChi would ask for a favorable report on Senate Bill 723.

For more information call:

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