

CRISP Maryland Consent Case Study

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Case Study: Maryland SB786

- [Senate Bill \(SB\) 786](#) was introduced in both the Maryland Senate and the House of Representatives this session
- Part of a suite of bills in response to *Dobbs* that the newly elected Governor, Wes Moore, publicly backed
- Senate President and Speaker of the House both publicly committed to securing the votes for the bill
- CRISP was aware that “privacy bills related to *Dobbs*” would be a part of the session and proactively met with relevant Maryland Delegates and lobbyists, stating the need for a technical input

Case Study: Maryland SB786 (cont.)

- First Version of the Bill:
 - A Health Information Exchange may not disclose [a record containing Legally Protected Health Care] to a treating provider, business entity, or health information exchange located outside [Maryland].”
 - Exceptions:
 - For adjudication of Claims;
 - To a specific treating provided with the consent of the patient; and
 - To a parent if the parent is required to consent to the services.
 - “**Legally Protected Health Care**” means all reproductive health services, medications, and supplies related to the direct provision of support of the care related to pregnancy, contraception, assisted reproduction, and abortion that is lawful in [Maryland].

Case Study: Maryland SB786 (cont.)

- Bill written to provide a “Part 2-ish” paradigm for “reproductive services”
- “Reproductive services” not defined
- Technological Challenges with First Version:
 - Without a definition of “reproductive services,” likely that any record containing documentation regarding contraception, pregnancy, abortion, etc. would be entirely blocked unless patient affirmatively consented
- Potential Solutions:
 - Filter records originating from certain facilities/departments (e.g., obstetrics)
 - Filter certain code sets
 - Either solution requires a definition of the sensitive departments/codes

Case Study: Maryland SB786 (cont.)

- Current Version of the Bill:
 - A health information exchange or electronic health network may not disclose . . . sensitive health services as determined by the Secretary
 - “Sensitive Health Services” are certain code sets the Secretary, through a Commission, determines applicable
 - Law was effective December 2023, with an “implementation period” of 6-12 months

Case Study: Maryland SB786 (cont.)

- Technological Implications:
 - HIEs/EHNs need to be able to parse and filter data based on the code set provided by the Commission
 - HIEs/EHNs need to be able to allow affirmative patient consent
 - Some HIEs/EHNs publicly stated that they do not intend to/do not have the ability to do the above and will block the record entirely
- National Network/TEFCA Implications:
 - If the technology solutions cannot be achieved, likely that any queries to Maryland related to “sensitive code sets” would be blocked in their entirety
 - Practically, this would mean that most individuals with uteruses would not have interoperable data

Technology Solutions: Maryland SB786 (cont.)

- Parsing Data
- Filtering Data
- Allowing Affirmative Patient Consent for Disclosure

CRISP Consent Tool: Affirmative Patient Consent

Consent to Disclose My Substance Use Disorder Treatment Information Next

From I authorize disclosure by any of my past, present, and future Substance Use Disorder treatment providers that share data with CRISP.

To Whom I authorize disclosure to CRISP Shared Services affiliate HIEs, who may then disclose the information to any of my past, present or future providers involved in my care who participate with the HIE. I can request a list of all providers who have received my information by going to <https://disclosures.crisphealth.org>.

Type and Amount of Data

Purpose The information shared will be used to help my health care team coordinate my care and provide health care treatment.

Consent Options

Disclose All Substance Use Disorder Treatment Data
This could include my treatment plan, medications, lab results and clinical notes about my care.

Disclose Substance Use Disorder Treatment Providers Contact Info Only
The information will include only my Substance Use Disorder treatment provider's name and contact information.