



Clearinghouse Caucus

January 23, 2024
5:00pm
Nugget Casino Resort
Sparks, NV

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Clearinghouse Caucus Agenda

Tuesday, January 23, 2024

Cascade 3
5:00 – 6:00pm



- I. **Welcome and Introduction of Cooperative Exchange** - Pam Grosze, Board Chair, Cooperative Exchange and VP, Senior Product Manager, PNC Bank
- II. **MD Regulatory update and CE Comment Letter** - Pam Grosze, Board Chair, Cooperative Exchange and VP, Senior Product Manager, PNC Bank
- III. **CMS Final Rule on Interoperability** - Pam Grosze, Board Chair, Cooperative Exchange and VP, Senior Product Manager, PNC Bank
- IV. **Cooperative Exchange 2023 Review / 2024 Plans** - Pam Grosze, Board Chair, Cooperative Exchange and VP, Senior Product Manager, PNC Bank
- V. **Meeting Wrap-Up** - Pam Grosze, Board Chair, Cooperative Exchange and VP, Senior Product Manager, PNC Bank

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Overview of Cooperative Exchange (CE)

- 18 Clearinghouse Member Companies
- Represent over 85% of the clearinghouse industry
- Over 750,000 submitting provider organizations
- Maintain over 8,000 Payer connections
- 1000 plus HIT vendor connections
- Process over 4 plus billion claims annually
- Value of transactions –over \$1.1 Trillion
- Infrastructure framework supports BOTH administrative and clinical transactions



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Our Members



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2024 Board of Directors



Board Chair
Pamela Grosze
PNC Bank



Board Past Chair
Crystal Ewing
Waystar



Treasurer
Tina Greene
Mitchell International



Secretary
Eric Grindstaff
Veradigm



Director
Dawn Duchek
Cognizant



Director
Rhonda Sapereira
Optum



Director
Jennifer Nereu
Jopari Solutions



Executive Director
Lisa Beard
M3Solutions

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Maryland Bill on Sharing Patient Data

Pamela Grosze
Cooperative Exchange, Board Chair



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COMAR 10.25.18, *Health Information Exchanges: Privacy and Security of Protected Health Information*


COMAR 10.25.07, *Certification of Electronic Health Networks and Medical Care Electronic Claims Clearinghouses*

EMERGENCY REGULATIONS & PROPOSED REGULATIONS

Chapter 249 (House Bill 812), *Health – Reproductive Health Services – Protected Information and Insurance Requirements*


OCTOBER 19, 2023

Information from MHCC Town Hall for EHNs Dec 20, 2023




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Background




- ▶ During the 2023 legislative session, the Maryland General Assembly passed Chapter 249 (House Bill 812), *Health – Reproductive Health Services – Protected Information and Insurance Requirements* (law)
 - Establishes protections for the disclosure of legally protected health care* by health information exchange (HIE) and electronic health network (EHN) entities operating in the State beginning December 1, 2023; fines for noncompliance begin June 1, 2024 (not to exceed \$10,000 per day)
- ▶ MHCC is required to adopt emergency regulations within nine months
 - Code of Maryland Regulations (COMAR) 10.25.07 and 10.25.18 are the framework to support implementation

* Includes the disclosure mifepristone data, the diagnosis, procedure, medication, and related codes for abortion care, and other sensitive health services as determined by the Secretary of Health and Protected Health Care Commission



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Draft Emergency Regulations

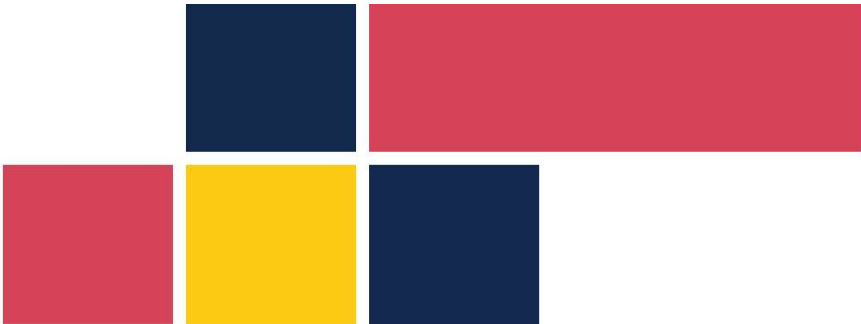

- ▶ Draft proposed emergency regulations were presented during the September 21, 2023, Commission meeting
- ▶ Proposed emergency regulations were released for informal comment September 22, 2023; stakeholders were asked to submit comments by October 4, 2023*

* See meeting materials for comments submitted and proposed amendments to COMAR 10.25.07 and 10.25.18

Note – The Cooperative Exchange submitted two separate comment letters to MHCC on the proposed regulations




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COMAR 10.25.07, *Certification of Electronic Health Networks and Medical Care Electronic Claims Clearinghouses – Modifications**


* Section, Subsection, and Paragraph – Bold Blue Font




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About EHNs




- ▶ EHNs exchange electronic health care administrative transactions (claims, referrals, authorizations, remittance) between payers and providers to increase efficiencies in health care operations and reduce administrative costs
 - Includes verifying the accuracy of data submitted, reporting on errors identified, and formatting transactions to align with HIPAA standards
 - Payers that accept electronic health care transactions originating in Maryland are required to accept transactions only from MHCC certified EHNs (see *appendix for a listing of the 29 certified EHNs*)





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Regulation .02 Definitions



- ▶ Adds definition for “Disclose/disclosure,” “Health information,” and “Legally protected health information” – *B(2), B(7), B(8)*
- ▶ Revises the definition of “Qualified accreditation or certification organization” to be inclusive of a national recognized entity that has established privacy and security standards for EHNs – *B(13)*
 - EHN certification is valid for two years





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Regulation .02 Definitions – Modifications



Modified Language	Rational
<p>(8) “Legally protected health information” means the health information subject to restrictions under Health-General Article, §4-302.5, Annotated Code of Maryland, including</p> <p>(a) Mifepristone data, as defined by the Secretary; and</p> <p>(b) <i>As specified in the Technical Guidance Document issued by the Secretary</i> As provided in COMAR XX.XX.XXX, the diagnosis, procedure, medication, and other codes related to:</p> <p>(i) Abortion care; and</p> <p>(ii) Sensitive health services, as defined by Health-General, §4-301, Annotated Code of Maryland.</p>	Technical modification

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Regulation .05 Standard for Certification



- Requires an EHN to provide MHCC with an attestation that the EHN has the ability to restrict disclosure of legally protected health information – A(2)(c)

Update – MHCC has provided new information that the attestation is required by EOB January 29, 2024

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Regulation .05 Standard for Certification – Modifications






Modified Language	Rational
<i>(c) Provide an attestation signed by an officer of the applicant that the applicant restricts disclosure of legally protected health information as required by Health-General Article, §4-302.5, Annotated and COMAR XX.XX.XX;</i>	Technical modification

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Regulation .09 Withdrawal of Certification and Other Penalties



- ▶ Allows the Commission to withdrawal certification from an EHN in the event the EHN discloses legally protected health information – *A(4)* 
- By December 18, 2023, an EHN is required to affirm to MHCC that it possess the technological capability to filter and restrict from disclosure legally protected health information OR submit an implementation plan describing the timeline and steps the EHN is taking to implement the requirements by June 1, 2024 – *B(1)* 
- ▶ EHNs that submit an implementation plan are required to provide a status report to the Commission by April 1, 2024, detailing progress made and to submit validation to the Commission by June 1, 2024, that the EHN possesses the technological capability to filter and restrict from disclosure legally protected health information – *B(2)*
- ▶ Adds civil and criminal penalties of up to \$10,000 per day for noncompliance and specifies that criminal penalties take effect June 1, 2024 – *C* 

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Regulation .09 Withdrawal of Certification and Other Penalties – *Modifications*



Modified Language	Rational
<p><i>B. An MHCC-Certified EHN must report on compliance progress to the Commission.</i></p> <p><i>(1) By December 18, 2023, an MHCC-certified EHN shall submit to the Commission:</i></p> <p><i>(a) An affirmation that <u>to the extent required by Health-General Article, §4-302.5, Annotated Code of Maryland</u> it:</i></p>	Aligns with the law

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Regulation .09 Withdrawal of Certification and Other Penalties – *Modifications*



Modified Language	Rational
<p><u>(i) Possesses the technological capability to filter and restrict from disclosure legally protected health information to the extent required by Health-General Article, §4-302.5, Annotated Code of Maryland and COMAR XX.XX.XX;</u></p> <p><u>(ii) Is parsing restricted codes and conveying all other information in the health record that is not prohibited by law to exchange; and</u></p> <p><u>(iii) Possesses the technological capacity to allow a consumer to request and consent to the exchange of legally protected health information to a specific treating provider; or</u></p>	Clarifies affirmation

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Regulation .09 Withdrawal of Certification and Other Penalties – *Modifications*



Modified Language	Rational
<p>(b) An implementation plan that includes:</p> <p>(i) An affirmation that despite its best efforts, the MHCC-certified EHN lacks the technological capability to fully comply with Health-General Article, §4-302.5, Annotated Code of Maryland as of December 1, 2023, including a detailed explanation of the EHN's limitations;</p> <p>(ii) A detailed description of the steps the MHCC-certified EHN is taking to ensure compliance with Health-General Article, §4-302.5, Annotated Code of Maryland by June 1, 2024;</p> <p>(iii) A timeline to implement Health-General Article, §4-302.5, Annotated Code of Maryland and COMAR XX.XX.XX-A by June 1, 2024; and</p>	Technical modification



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Next Steps



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Regulations – The Process



Step 1

EMERGENCY REGULATIONS

- ▶ Amendments to COMAR 10.25.07 and 10.25.18 will be published in the Maryland Register as Emergency Regulations
 - Emergency Regulations are adopted for 180 days
- ▶ Emergency Regulations are proposed today as Chapter 249 requires MHCC to adopt emergency regulations

Step 2

PROPOSED REGULATIONS

- ▶ Amendments to COMAR 10.25.07 and 10.25.18 will be published in the Maryland Register to solicit formal comment
- ▶ Requires step in process to submit Proposed Permanent Regulations

Note –proposed regulations published January 12, 2024

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Commission Action



- ▶ Proposed Amendments take into account stakeholder feedback through an informal comment process and fulfills regulatory requirements in Chapter 249 (House Bill 812), *Health – Reproductive Health Services – Protected Information and Insurance Requirements*
 - Staff requests the Commission adopt COMAR 10.25.07 and 10.25.18 as emergency regulations
 - Staff requests the Commission approve COMAR 10.25.07 and 10.25.18 for posting as proposed in the Maryland Register

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Certified Electronic Health Networks




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Electronic Health Networks



EHNs Certified by MHCC					
1	athenaEDI™	11	Inmediata Health Group, LLC	21	QS/1 Data Systems
2	Availity, LLC	12	Inovalon Provider, Inc.	22	RelayHealth Pharmacy Solutions
3	Carestream Dental LLC	13	InstaMed Communications, LLC	23	Smart Data Solutions, LLC
4	Change Healthcare	14	NantHealth, Inc.	24	The SSI Group, LLC
5	Cyfluent, Inc.	15	Office Ally, LLC	25	Surescripts
6	EDI Health Group, Inc. (dba dentalXchange)	16	Optum	26	Veradigm Inc.
7	Experian Health	17	Optum 360	27	Vyne Dental
8	Eyefinity, Inc.	18	Oracle Cerner	28	TriZetto Provider Solutions, LLC
9	FinThrive Healthcare, Inc	19	PNC Bank, NA	29	Waystar
10	FinThrive Revenue Systems, LLC	20	PNT Data Corp.		



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History:

[Chapters 790](#) and [791](#) of the 2021 Laws of Maryland *Public Health – State Designated Exchange – Clinical Information* require EHNs to submit electronic health care transactions originating from a Maryland-based provider to the State Designated health information exchange for public health and clinical purposes. **Clearinghouses are defined as EHNs under the law and required to certify with MHCC.**

The Cooperative Exchange submitted a comment letter to the Commission, and participated in meetings discussing the requirements, which have stalled since March 2022.

This new law adds additional restrictions on data that can be shared by an EHN with an HIE.

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Specific Requirements:

BEGINNING **DECEMBER 1, 2023**, A HEALTH INFORMATION EXCHANGE OR ELECTRONIC HEALTH NETWORK MAY NOT DISCLOSE **MIFEPRISTONE DATA OR THE DIAGNOSIS, PROCEDURE, MEDICATION, OR RELATED CODES FOR ABORTION CARE AND OTHER SENSITIVE HEALTH SERVICES** AS DETERMINED BY THE SECRETARY UNDER SUBSECTION (D) OF THIS SECTION TO A **TREATING PROVIDER, A BUSINESS ENTITY, ANOTHER HEALTH INFORMATION EXCHANGE, OR ANOTHER ELECTRONIC HEALTH NETWORK** UNLESS THE DISCLOSURE IS:

- FOR THE ADJUDICATION OF CLAIMS; OR
- TO A SPECIFIC TREATING PROVIDER AT THE WRITTEN REQUEST OF AND WITH THE CONSENT OF:
 - (I) A PATIENT, FOR SERVICES FOR WHICH THE PATIENT CAN PROVIDE CONSENT UNDER STATE LAW; OR
 - (II) A PARENT OR GUARDIAN OF A PATIENT, FOR SERVICES FOR WHICH THE PARENT OR GUARDIAN CAN PROVIDE CONSENT UNDER STATE LAW.



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Additional Information

- The Cooperative Exchange was verbally told after the town hall meeting that clearinghouses do need to submit an attestation of compliance indicating that they are compliant because data is exchanged for the purpose of adjudication of claims
 - If data is used for a secondary purpose, then the requirement to restrict disclosure of the sensitive data stands, and the attestation would need to include the information that the EHN has the ability to restrict that disclosure.

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Attestation Requirements

- The Maryland Health Care Commission (MHCC) requests electronic health networks (EHN) submit their affirmation of compliance with the law or their implementation plan (plan) via email as a PDF attachment to anna.gribble1@maryland.gov.
- The affirmation of compliance should include an executive-level signature, contact information, and should address the following items below from COMAR 10.25.07.09B(1).
 - Excerpt from COMAR 10.25.07
 - B. An MHCC-Certified EHN must report on compliance progress to the Commission.
 - (1) By January 8, 2024, an MHCC-certified EHN shall submit to the Commission:
 - (a) An affirmation that to the extent required by Health-General Article, §4-302.5, Annotated Code of Maryland it:
 - (i) Possesses the technological capability to filter and restrict from disclosure legally protected health information ;
 - (ii) Is parsing restricted codes and conveying all other information in the health record that is not prohibited by law to exchange; and
 - (iii) Possesses the technological capacity to allow a consumer to request and consent to the exchange of legally protected health information to a specific treating provider; or
- The MHCC has provided new information that the attestation will be required by EOB January 29, 2024.

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CMS Interoperability and Prior Authorization Final Rule – Impact to Clearinghouses

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Final Rule Overview



Provisions

- Patient Access API
- Provider Access API
- Payer-to-Payer API
- Prior Authorization API
- Improving Prior Authorization Processes
- New measures for Electronic Prior Authorization for the Merit-based Incentive Payment System (MIPS) Promoting Interoperability Performance Category and the Medicare Promoting Interoperability Program



Impacted Providers

- Eligible hospitals and critical access hospitals (CAHs) participating in the Medicare Promoting Interoperability Program
- MIPS eligible clinicians participating in the MIPS Promoting Interoperability performance category



Impacted Payers

- Medicare Advantage (MA) Organizations
- State Medicaid and Children's Health Insurance Program (CHIP) agencies
- Medicaid Managed Care Plans and CHIP Managed Care Entities
- Qualified Health Plan (QHP) issuers on the Federally-facilitated Exchanges (FfEs)



CMS slides available at: <https://www.cms.gov/files/document/cms-interoperability-and-prior-authorization-final-rule-informational-session-january-17-2024.pdf>

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Prior Authorization API

Beginning January 1, 2027



API REQUIREMENT

Impacted payers must implement and maintain a Prior Authorization API.



IDENTIFYING WHETHER AN ITEM OR SERVICE REQUIRES PRIOR AUTHORIZATION

The API must be populated with the list of items and services (excluding drugs) that require prior authorization from the payer.



PAYER-SPECIFIC DOCUMENTATION REQUIREMENTS

The API must identify the payer's documentation requirements for all items and services (excluding drugs) that require a prior authorization request.



EXCHANGING PRIOR AUTHORIZATION REQUESTS AND RESPONSES

The API must support the creation and exchange of prior authorization requests from providers and responses from payers.

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1/17/24, 10:00 AM

CMS Interoperability and Prior Authorization Final Rule CMS-0057-F | CMS



Fact sheet

CMS Interoperability and Prior Authorization Final Rule CMS-0057-F

In response to feedback received on multiple rules, extensive stakeholder outreach, and to further promote efficiency in the prior authorization process, HHS will be announcing the use of enforcement discretion for the Health Insurance Portability and Accountability Act of 1996 (HIPAA) X12 278 prior authorization transaction standard. Covered entities that implement an all-FHIR-based Prior Authorization API pursuant to the CMS Interoperability and Prior Authorization final rule that do not use the X12 278 standard as part of their API implementation will not be enforced against under HIPAA Administrative Simplification, thus allowing limited flexibility for covered entities to use a FHIR-only or FHIR and X12 combination API to satisfy the requirements of the CMS Interoperability and Prior Authorization final rule. Covered entities may also choose to make available an X12-only prior authorization transaction. HHS will continue to evaluate the HIPAA prior authorization transaction standards for future rulemaking.

Note that this enforcement discretion is for all covered entities, not just those covered by this rule



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Standardized Denial Codes

Comment: A few commenters questioned whether CMS would provide standardized denial codes and how much flexibility payers will have to define denial reasons.

Response: In this final rule, we are requiring impacted payers to provide a specific reason for a denial. We did not propose standardized denial codes or a specific set of denial reasons for payers to use. However, there is a list of standardized codes that must be used when a prior authorization decision is sent to a provider via the adopted HIPAA standard, which is maintained by the SDO X12. While using those codes is not required for the Patient Access API, we strongly encourage payers and providers to evaluate the code set and make recommendations to X12 for updated or new denial codes, as appropriate. If those X12 denial codes meet the requirement for specificity, they could be used in both the HIPAA transaction and the Patient Access API.

Reference: CMS-0057-F page 60

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Improving Prior Authorization Processes

Beginning January 1, 2026



PRIOR AUTHORIZATION DECISION TIMEFRAMES

Certain impacted payers are required to send standard prior authorization decisions within 7 calendar days and expedited prior authorization decisions within 72 hours. This policy change for standard decisions does **not** include QHPs on the FFEs.



PROVIDING A SPECIFIC REASON FOR DENIAL

Payers must provide specific information about prior authorization denials, regardless of how the prior authorization request is submitted.



PRIOR AUTHORIZATION METRICS

Impacted payers are required to report certain metrics about their prior authorization processes on their public website on an annual basis. This includes the percent of prior authorization requests approved, denied, and approved after appeal, and average time between submission and decision.

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Electronic Prior Authorization Measures



The Electronic Prior Authorization Measures are **yes/no measures** instead of the proposed numerator/denominator measures. Participants are required to report a **yes** response or claim an exclusion to satisfy the reporting requirements for the **CY 2027 performance period/2029 MIPS payment year** or the **CY 2027 EHR reporting period** (for the Medicare Promoting Interoperability Program).

PARTICIPATING PROGRAMS

- MIPS Promoting Interoperability performance category (under the HIE objective)
- Medicare Promoting Interoperability Program for Eligible Hospitals and CAHs (under the HIE objective)



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Resources

Interoperability Rules

- 2024 CMS *Interoperability and Prior Authorization* final rule: [Final rule](#), [Fact Sheet](#)
- 2023 *ONC Health Data, Technology, and Interoperability (HTI-1)* final rule: [Federal Register](#), [Fact Sheet](#)
- 2020 CMS *Interoperability and Patient Access* final rule: [Federal Register](#), [Fact Sheet](#), and [Frequently Asked Questions](#)
- 2020 *ONC 21st Century Cures Act* final rule: [Federal Register](#)

Technical Standards and Implementation Support

- Technical Standards: [FHIR](#), [SMART IG/OAuth 2.0](#), [OpenID Connect](#), [USCDI](#)
- Implementation Support for APIs: [CARIN for Blue Button IG](#), [PDex IG](#), [PDex Formulary IG](#), [PDex Plan Net IG](#), [US Core IG](#), [CRD IG](#), [DTR IG](#), [PAS IG](#), [Bulk Data Access IG](#)



Visit the CMS
Interoperability [website](#)
for additional resources
and information!

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Impact to Clearinghouses

- Clearinghouses exchanging prior authorization transactions may need to support both FHIR and 278
- Clearinghouses exchange data, so changes to data being exchanged require changes to clearinghouse processes
- Requirements for prior authorization response timeframes may require changes to clearinghouse processes
- Since requirements are not for all payers, clearinghouses may need to support multiple processes or support providers in understanding what is accepted by different payers

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Impact to Clearinghouses

- Impacts to clearinghouse validation
 - Updates to denial codes or use of non-standard denial codes
 - Updates to USCDI v3, for example including patient coverage information
- Clearinghouses may choose to provide API services to meet these requirements
- Providers may reach out to clearinghouses for assistance in meeting MIPS requirements

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Cooperative Exchange Committees

- Additional discussions will be held in our Industry Affairs and Emerging Trends Committees
- Join our discussion to get additional information!
- Contact Lisa Beard for information on how to join the discussion

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The Cooperative Exchange Membership Overview and 2023 Accomplishments

Pamela Grosze
Cooperative Exchange, Board Chair

Add a footer

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2024 Strategic Goals

Grow Membership Involvement and Value

Strengthen Brand Recognition and Reputation

Expand role as a recognized industry thought leader

Provide leadership on the implementation of updated and emerging industry standards



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CE Membership

Voting Members

Process or direct administrative, clinical, or financial transactions and meet the definition of clearinghouse under HHS regulation § 160.103

Supporting Organization

Non-voting, open to for profit organizations that share the goals of the Cooperative Exchange but do not meet the criteria for voting membership

Alliance Members

Non-voting, not-for-profit industry organizations that support the mission of the organization and would further its mission and goals



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Benefits of Membership

- ✓ Any members of your organization are able to participate in Cooperative Exchange activities
 - Educational opportunities
 - Committee meetings
 - Membership meetings
 - Clearinghouse Caucus
 - Cooperative Exchange discounts to affiliated events (e.g. WEDI conferences and events)
- ✓ Have your voice heard!
 - Provide input into work products and comments / testimony given to industry organizations
 - Drive educational opportunities that are presented

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Participate in our Committees

- **Education Committee**
 - Manages educational events throughout the year for Cooperative Exchange members and external stakeholders, virtual and in-person
- **Industry Affairs Committee**
 - Ensures Cooperative Exchange members are actively engaged and contributing to the industry advisory and rulemaking process to establish the value and position of the Cooperative Exchange in industry affairs
- **Emerging Trends & Strategic Innovation Committee**
 - Identifies, monitors, and tracks emerging trends within the industry, evaluating the impact on our clearinghouse members
- **Cybersecurity and Privacy Committee**
 - Educates and provides best practices on all aspects of cybersecurity and privacy as it impacts the clearinghouse industry

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Participate in our Committees

- **Marketing and Communication Committee**
 - Focuses on internal and external communication to promote the Cooperative Exchange
- **Membership Committee**
 - Identifies and solicits prospective members, and works with existing members to promote the ROI of membership
- **Policies and Procedures Committee**
 - Assemble and maintain policies and procedures for the Cooperative Exchange

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Participate in our Monthly Membership Meeting

- **Updates on Hot Topics**
- **Updates from our Industry Liaisons**
 - **Government Activities**
 - **X12**
 - **WEDI**
 - **NCPDP**
 - **HL7**
 - **CAQH CORE**
 - **IAIABC**
 - **NUBC/NUCC**
- **Updates on our committee activity**
- **Opportunity for open discussion**
- **Held the Third Friday of each month at 11:00 ET**

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2023 Accomplishments

- Ongoing collaboration with the MD Health Care Commission
- Comment Letters, including
 - RFI on ICD-11 (two comment letters to NCVHS)
 - RFI on Aligning healthcare Cybersecurity requirements
 - Response to NCVHS recommendation regarding X12 standards
 - Response to CMS on the Attachments NPRM
- NCVHS testimony during hearing on updates to X12 standards and CAQH CORE operating rules
- 12 member webinars on varying hot topics
- Discussions on AI/ChatGPT, Information blocking, review of WEDI MPA results, and No Surprises Act



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2023 Accomplishments

- Education on TECCA and the evolving role of cybersecurity in healthcare and updates on the President's national cybersecurity strategy and information on costs of a breach.
- Weekly newsletter, social media and website updates

For more information on membership, please email
lisa@m3solutionsllc.com

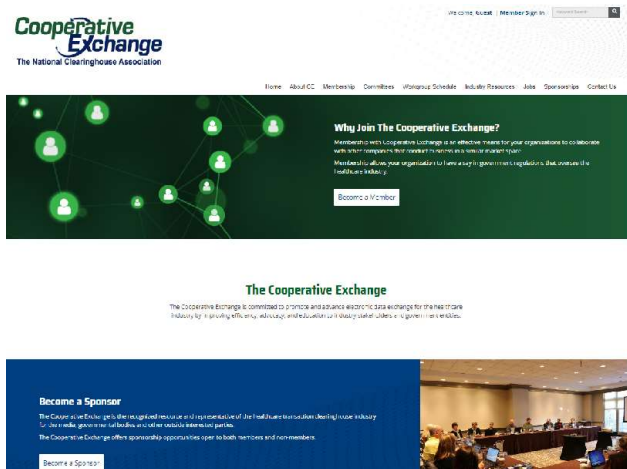


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To download the Clearinghouse Caucus presentation, visit our website under the **Industry Resources** Tab, then visit the **Clearinghouse Caucus** page.

Cooperative Exchange Members can login to the Members Only area to download our Monthly Membership Meeting presentations and our Educational webinars are archived to listen on-demand.

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Thank You for Attending!

Cooperative Exchange Contact Information

Pam Grosze, Board Chair, Cooperative Exchange
VP, Senior Product Manager, PNC Bank
pamela.grosze@pnc.com

Lisa Beard, Executive Director, Cooperative Exchange
(205) 585-4000
lisa@cooperativeexchange.org

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