

1 H.138

2 Introduced by Representative Maier of Middlebury

3 Referred to Committee on

4 Date:

5 Subject: Vermont Information Technology Leaders, Inc.; immunity; medical  
6 malpractice actions

7 Statement of purpose: This bill proposes that the Vermont Information  
8 Technology Leaders, Inc. (VITL) and any of its members or employees shall  
9 not be considered health care providers.

10 An act relating to the Vermont Information Technology Leaders, Inc.  
11 (VITL)

12 It is hereby enacted by the General Assembly of the State of Vermont:

13 Sec. 1. 22 V.S.A. § 903 is amended to read:

14 § 903. HEALTH INFORMATION TECHNOLOGY

15 \* \* \*

16 (c)(1) The commissioner shall enter into a grant agreement with the  
17 Vermont ~~information technology leaders~~ Information Technology Leaders, Inc.  
18 (VITL), a broad-based health information technology advisory group that  
19 includes providers, payers, employers, patients, health care purchasers,  
20 information technology vendors, and other business leaders, to develop the

1 health information technology plan, including applicable standards, protocols,  
2 and pilot programs. In carrying out their responsibilities under this section,  
3 members of VITL shall be subject to conflict of interest policies established by  
4 the commissioner to ensure that deliberations and decisions are fair and  
5 equitable.

6 (2) VITL shall be designated in the plan to operate the exclusive  
7 statewide health information exchange network for this state, notwithstanding  
8 the provisions of subsection (g) of this section requiring the recommendation  
9 of the commissioner and the approval of the general assembly before the plan  
10 can take effect. Nothing in this section shall impede local community providers  
11 from the exchange of electronic medical data.

12 (d) The following persons shall be members of VITL:

13 (1) the commissioner, who shall advise the group on technology best  
14 practices and the state's information technology policies and procedures,  
15 including the need for a functionality assessment and feasibility study related  
16 to establishing an electronic health information infrastructure under this  
17 section;

18 (2) the director of the office of Vermont health access or his or her  
19 designee;

20 (3) the commissioner of health or his or her designee; and

1           (4) the commissioner of banking, insurance, securities, and health care  
2 administration or his or her designee.

3           (e) On or before July 1, 2006, VITL shall initiate a pilot program involving  
4 at least two hospitals using existing sources of electronic health information to  
5 establish electronic data sharing for clinical decision support, pursuant to  
6 priorities and criteria established in conjunction with the health information  
7 technology advisory group.

8           (1) Objectives of the pilot program shall include:

9                 (A) supporting patient care and improving quality of care;

10                (B) enhancing productivity of health care professionals and reducing  
11 administrative costs of health care delivery and financing.

12           (2) Objectives of the pilot program may include:

13                (A) determining whether and how best to expand the pilot program  
14 on a statewide basis;

15                (B) implementing strategies for future developments in health care  
16 technology, policy, management, governance, and finance; and

17                (C) ensuring patient data confidentiality at all times.

18           (f) The standards and protocols developed by VITL shall be no less  
19 stringent than the "Standards for Privacy of Individually Identifiable Health  
20 Information" established under the Health Insurance Portability and  
21 Accountability Act of 1996 and contained in 45 C.F.R., Parts 160 and 164, and

1 any subsequent amendments. In addition, the standards and protocols shall  
2 ensure that there are clear prohibitions against the out-of-state release of  
3 individually identifiable health information for purposes unrelated to treatment,  
4 payment, and health care operations, and that such information shall under no  
5 circumstances be used for marketing purposes. The standards and protocols  
6 shall require that access to individually identifiable health information is  
7 secure and traceable by an electronic audit trail.

8 (g) On or before January 1, 2007, VITL shall submit to the commission on  
9 health care reform, the secretary of administration, the commissioner of  
10 information and innovation, the commissioner of banking, insurance,  
11 securities, and health care administration, the director of the office of Vermont  
12 health access, the senate committee on health and welfare, and the house  
13 committee on health care a preliminary health information technology plan for  
14 establishing a statewide, integrated electronic health information infrastructure  
15 in Vermont, including specific steps for achieving the goals and objectives of  
16 this section. A final plan shall be submitted July 1, 2007. The plan shall  
17 include also recommendations for self-sustainable funding for the ongoing  
18 development, maintenance, and replacement of the health information  
19 technology system. Upon recommendation by the commissioner of  
20 information and innovation and approval by the general assembly, the plan  
21 shall serve as the framework within which certificate of need applications for

1 information technology are reviewed under section 9440b of Title 18 by the  
2 commissioner. VITL shall update the plan annually to reflect emerging  
3 technologies, the state's changing needs, and such other areas as VITL deems  
4 appropriate and shall submit the updated plan to the commissioner. Upon  
5 approval by the commissioner, VITL shall distribute the updated plan to the  
6 commission on health care reform; the secretary of administration; the  
7 commissioner of banking, insurance, securities, and health care administration;  
8 the director of the office of Vermont health access; the senate committee on  
9 health and welfare; the house committee on health care; affected parties; and  
10 interested stakeholders.

11 \* \* \*

12 (1) VITL and any person who serves as a member, director, officer or  
13 employee of VITL with or without compensation shall not be considered a  
14 health care provider as defined in subdivision 9432(8) of Title 18 for purposes  
15 of any action taken in good faith pursuant to or in reliance upon this section.