

1 Introduced by Committee on Health Care

2 Date:

3 Subject: Health; health information technology; Department of Vermont

4 Health Access; Vermont Information Technology Leaders; Green

5 Mountain Care Board; health information exchange

6 Statement of purpose of bill as introduced: This bill proposes to require the
7 Department of Vermont Health Access and the Vermont Information
8 Technology Leaders, Inc. (VITL) to submit to the General Assembly a work
9 plan, a contingency plan, and bimonthly progress reports regarding their efforts
10 to implement systemic improvements to health information technology and
11 health information exchange in Vermont. It would shift responsibility for
12 Vermont’s Health Information Technology Plan from the Agency of
13 Administration to the Department of Vermont Health Access and provide the
14 Green Mountain Care Board with approval authority over the Plan. The bill
15 would remove VITL’s statutory designation as the operator of the State’s
16 health information exchange network. It would extend a portion of the health
17 care claims tax that is dedicated to health information technology through
18 July 1, 2019. In the absence of contrary legislative action during the 2019
19 legislative session, it would also sunset VITL’s statutory authority and its
20 eligibility to use funds from the Health IT-Fund on July 1, 2019.

1 An act relating to health information technology and health information
2 exchange

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

4 Sec. 1. HEALTH INFORMATION TECHNOLOGY; HEALTH
5 INFORMATION EXCHANGE; PROGRESS REPORTS

6 (a) On or before May 1, 2018, the Department of Vermont Health Access
7 and the Vermont Information Technology Leaders, Inc. (VITL) shall submit to
8 the House Committees on Appropriations, on Health Care, and on Ways and
9 Means; the Senate Committees on Appropriations, on Health and Welfare, and
10 on Finance; and the Green Mountain Care Board a work plan detailing the
11 process by which the Department and VITL shall implement the
12 recommendations of the health information technology report submitted to the
13 General Assembly in accordance with 2017 Acts and Resolves No. 73, Sec. 15
14 (Act 73 report). The work plan shall be informed by stakeholder and consumer
15 input and by technology options and opportunities, and shall set forth both a
16 timeline of tasks to be completed and a list of clear objectives to assist the
17 General Assembly in evaluating the success or failure of the parties' work.

18 (b) On or before September 1, 2018, the Department of Vermont Health
19 Access and VITL shall submit to the House Committees on Appropriations, on
20 Health Care, and on Ways and Means; the Senate Committees on
21 Appropriations, on Health and Welfare, and on Finance; the Health Reform
22 Oversight Committee; and the Green Mountain Care Board a contingency plan

1 for health information technology to be used if the Department and VITL are
2 unable to implement the recommendations from the Act 73 report. The
3 contingency plan shall contain the following:

4 (1) a description of the health information exchange services that would
5 need to be replaced;

6 (2) a process for determining the manner in which the services would be
7 replaced and the mechanism for acquiring the replacement services, such as a
8 request for proposals;

9 (3) an assessment of the State’s ownership interests in hardware
10 systems, software systems, applications, data, and other physical and
11 intellectual property that would need to be licensed to a future operator of
12 Vermont’s health information exchange;

13 (4) a plan for transitioning operations from VITL to the new operator or
14 operators; and

15 (5) the impacts of the change on health care providers, health care
16 consumers, State government, and Vermont’s health care reform initiatives.

17 (c) On or before May 1, July 1, September 1, and November 1, 2018, the
18 Department of Vermont Health Access and VITL shall provide to the House
19 Committees on Appropriations, on Health Care, and on Ways and Means; the
20 Senate Committees on Appropriations, on Health and Welfare, and on Finance;
21 the Health Reform Oversight Committee; and the Green Mountain Care Board

1 written updates on their progress toward implementing the recommendations
2 contained in the Act 73 report.

3 Sec. 2. 18 V.S.A. § 9351 is amended to read:

4 § 9351. HEALTH INFORMATION TECHNOLOGY PLAN

5 (a) ~~The Secretary of Administration or designee~~ Department of Vermont
6 Health Access, in consultation with the Department's Health Information
7 Exchange Steering Committee, shall be responsible for the overall
8 coordination of Vermont's statewide Health Information Technology Plan.

9 The Plan shall be revised annually and updated comprehensively every five
10 years to provide a strategic vision for clinical health information technology.

11 ~~The Secretary or designee~~ Department, in consultation with the Steering
12 Committee, shall administer the Plan, which shall include the implementation
13 of an integrated electronic health information infrastructure for the sharing of
14 electronic health information among health care facilities, health care
15 professionals, public and private payers, and patients. The Plan shall include
16 standards and protocols designed to promote patient education, patient privacy,
17 physician best practices, electronic connectivity to health care data, and,
18 overall, a more efficient and less costly means of delivering quality health care
19 in Vermont.

20 * * *

1 (c) The ~~Secretary of Administration or designee may update the Plan~~
2 Department of Vermont Health Access may propose updates to the Plan, in
3 consultation with the Steering Committee and subject to Green Mountain Care
4 Board approval, as needed to reflect emerging technologies, the State’s
5 changing needs, and such other areas as the ~~Secretary or designee~~ Department
6 deems appropriate. The ~~Secretary or designee~~ Department shall solicit
7 recommendations from ~~Vermont Information Technology Leaders, Inc. (VITL)~~
8 ~~and other entities~~ interested stakeholders in order to ~~update~~ propose updates to
9 the Health Information Technology Plan pursuant to this section, including
10 applicable standards, protocols, and pilot programs, and following approval of
11 the proposed updates by the Green Mountain Care Board, may enter into a
12 contract or grant agreement with ~~VITL or other~~ appropriate entities to update
13 some or all of the Plan. Upon approval ~~by the Secretary~~ of the updated Plan by
14 the Green Mountain Care Board, the Department of Vermont Health Access
15 shall distribute the updated Plan ~~shall be distributed~~ to the Secretary of
16 Administration; the Commissioner of Information and Innovation; the
17 Commissioner of Financial Regulation; ~~the Commissioner of Vermont Health~~
18 ~~Access~~; the Secretary of Human Services; the Commissioner of Health; the
19 Commissioner of Mental Health; the Commissioner of Disabilities, Aging, and
20 Independent Living; the Senate Committee on Health and Welfare; the House
21 Committee on Health Care; affected parties; and interested stakeholders.

1 Unless major modifications are required, the ~~Secretary~~ Department may
2 present updated information about the Plan to the ~~Green Mountain Care Board~~
3 ~~and~~ legislative committees of jurisdiction in lieu of creating a written report.

4 * * *

5 Sec. 3. 18 V.S.A. § 9352 is amended to read:

6 § 9352. VERMONT INFORMATION TECHNOLOGY LEADERS

7 * * *

8 (c)(1) Health information exchange operation. VITL shall be designated in
9 the Health Information Technology Plan approved by the Green Mountain
10 Care Board pursuant to section 9351 of this title to operate the exclusive
11 statewide health information exchange network for this State. The Plan shall
12 determine the manner in which Vermont's health information exchange
13 network shall be managed. ~~After the~~ The Green Mountain Care Board
14 ~~approves~~ shall have the authority to approve VITL's core activities and budget
15 pursuant to chapter 220 of this title, ~~the Secretary of Administration or~~
16 ~~designee shall enter into procurement grant agreements with VITL pursuant to~~
17 ~~8 V.S.A. § 4089k.~~ Nothing in this chapter shall impede local community
18 providers from the exchange of electronic medical data.

19 (2) Notwithstanding any provision of 3 V.S.A. § 2222 or 2283b to the
20 contrary, upon request of the Secretary of Administration, the Department of
21 Information and Innovation shall review VITL's technology for security,

1 privacy, and interoperability with State government information technology,
2 consistent with the State's health information technology plan required by
3 section 9351 of this title.

4 (d) Privacy. The standards and protocols implemented by VITL shall be
5 consistent with those adopted by the statewide Health Information Technology
6 Plan pursuant to subsection 9351(e) of this title.

7 (e) Report. ~~No later than~~ On or before January 15 of each year, VITL shall
8 file a report with the Green Mountain Care Board; the Secretary of
9 Administration; the Commissioner of Information and Innovation; the
10 Commissioner of Financial Regulation; the Commissioner of Vermont Health
11 Access; the Secretary of Human Services; the Commissioner of Health; the
12 Commissioner of Mental Health; the Commissioner of Disabilities, Aging, and
13 Independent Living; the Senate Committee on Health and Welfare; and the
14 House Committee on Health Care. The report shall include an assessment of
15 progress in implementing health information technology in Vermont and
16 recommendations for additional funding and legislation required. In addition,
17 VITL shall publish minutes of VITL meetings and any other relevant
18 information on a public website. The provisions of 2 V.S.A. § 20(d)
19 (expiration of required reports) shall not apply to the report to be made under
20 this subsection.

1 (f) Funding authorization. VITL is authorized to seek matching funds to
2 assist with carrying out the purposes of this section. In addition, it may accept
3 any and all donations, gifts, and grants of money, equipment, supplies,
4 materials, and services from the federal or any local government, or any
5 agency thereof, and from any person, firm, foundation, or corporation for any
6 of its purposes and functions under this section and may receive and use the
7 same, subject to the terms, conditions, and regulations governing such
8 donations, gifts, and grants. VITL shall not use any State funds for health care
9 consumer advertising, marketing, or similar services unless necessary to
10 comply with the terms of a contract or grant that requires a contribution of
11 State funds.

12 (g) Waivers. The Secretary of ~~Administration~~ Human Services or
13 designee, in consultation with VITL, may seek any waivers of federal law, of
14 rule, or of regulation that might assist with implementation of this section.

15 (h) [Repealed.]

16 (i) Certification of meaningful use and connectivity.

17 (1) To the extent necessary to support Vermont’s health care reform
18 goals or as required by federal law, VITL shall be authorized to certify the
19 meaningful use of health information technology and electronic health records
20 by health care providers licensed in Vermont.

1 (2) VITL, in consultation with health care providers and health care
2 facilities, shall establish criteria for creating or maintaining connectivity to the
3 State’s health information exchange network. VITL shall provide the criteria
4 annually ~~by~~ on or before March 1 to the Green Mountain Care Board
5 established pursuant to chapter 220 of this title.

6 (j) Scope of activities. VITL and any person who serves as a member,
7 director, officer, or employee of VITL with or without compensation shall not
8 be considered a health care provider as defined in subdivision 9432 of this title
9 for purposes of any action taken in good faith pursuant to or in reliance upon
10 provisions of this section relating to VITL’s:

11 (1) governance;

12 (2) electronic exchange of health information and operation of the
13 statewide Health Information Exchange Network as long as nothing in such
14 exchange or operation constitutes the practice of medicine pursuant to
15 26 V.S.A. chapter 23 or 33;

16 (3) implementation of privacy provisions;

17 (4) funding authority;

18 (5) application for waivers of federal law;

19 (6) establishment and operation of a financing program providing
20 electronic health records systems to providers; or

1 (7) certification of health care providers' meaningful use of health
2 information technology.

3 Sec. 4. 2013 Acts and Resolves No. 73, Sec. 60(10), as amended by 2017 Acts
4 and Resolves No. 73, Sec. 14, is further amended to read:

5 (10) Secs. 48-51 (health claims tax) shall take effect on July 1, 2013 and
6 52 and 53 (health claims tax revenue; Health IT-Fund; sunset) shall take effect
7 on July 1, ~~2018~~ 2019.

8 Sec. 5. PROSPECTIVE REPEAL OF VITL STATUTE

9 In order to provide the Department of Vermont Health Access and Vermont
10 Information Technology Leaders, Inc. with appropriate motivation to ensure
11 successful implementation of the Act 73 report recommendations as set forth in
12 the work plan developed pursuant to Sec. 1 of this act, and in the absence of
13 2019 legislative action to the contrary, 18 V.S.A. § 9352 is repealed on July 1,
14 2019.

15 Sec. 6. 32 V.S.A. § 10301 is amended to read:

16 § 10301. HEALTH IT-FUND

17 (a) The Vermont Health IT-Fund is established in the State Treasury as a
18 special fund to be a source of funding for Medical Health Care Information
19 Technology Programs and initiatives such as those outlined in the Vermont
20 Health Information Technology Plan administered by the ~~Secretary of~~
21 ~~Administration or designee~~ Department of Vermont Health Access. One

1 hundred percent of the Fund shall be disbursed for the advancement of health
2 information technology adoption and utilization in Vermont as appropriated by
3 the General Assembly, less any disbursements relating to the administration of
4 the Fund. The Fund shall be used for loans and grants to health care providers
5 pursuant to section 10302 of this chapter and for the development of programs
6 and initiatives sponsored by ~~VHPL~~ and State entities designed to promote and
7 improve health care information technology, including:

8 (1) a program to provide electronic health information systems and
9 practice management systems for health care and human service practitioners
10 in Vermont;

11 (2) financial support for ~~VHPL~~ to build and operate the health
12 information exchange network;

13 (3) implementation of the Blueprint for Health information technology
14 initiatives, related public and mental health initiatives, and the advanced
15 medical home and community care team project; and

16 (4) consulting services for installation, integration, and clinical process
17 ~~re-engineering~~ reengineering relating to the utilization of health-care
18 information technology such as electronic health records.

19 * * *

20 (e) ~~VHPL and any other~~ Any entity requesting disbursements from the
21 Health IT-Fund shall develop a detailed annual plan for proposed expenditures

1 from the Health IT-Fund for the upcoming fiscal year. The expenditure plan
2 shall be included within the context of the entity's overall budget, including all
3 revenue and expenditures.

4 * * *

5 (h) ~~VITL and any other~~ Any beneficiary receiving funding shall submit
6 quarterly expenditure reports to the Secretary of Administration and to the
7 Green Mountain Care Board, including a year-end report ~~by~~ on or before
8 August 1.

9 (i) Any primary care practitioner receiving an electronic health information
10 system, practice management system, or both pursuant to subdivision (a)(1) of
11 this section shall maximize usage of such system ~~in accordance with the~~
12 ~~guidelines developed by~~ VITL. A practitioner who is determined ~~by~~ VITL to
13 be using the system to less than its full capacity shall be provided with an
14 opportunity for additional instruction as needed to enable full usage of the
15 system. If a practitioner is unwilling or unable to utilize the system to its full
16 capacity, such practitioner shall refund to ~~VITL~~ the State the fair market value
17 of the system.

18 Sec. 7. EFFECTIVE DATES

19 (a) Secs. 1–5 and this section shall take effect on passage.

20 (b) Sec. 6 (32 V.S.A. § 10301) shall take effect on July 1, 2019, but only if
21 the repeal of 18 V.S.A. § 9352 occurs as set forth in Sec. 5.