

Rep. Donahue
Vice Chair
House Health Care Committee:

Following up on our Thursday coat room conversation:

How much more are we planning on spending in order to NOT find out where the \$50M investment in the VITL Health Information Exchange (HIE) and our Intellectual Property went, and what the Attorney General will need to do to recover the missing IP from Medicity?

Any agreements that VITL signed with Medicity transferring ownership are legally INVALID as the law passed by Vermont's Legislature specifically precluded VITL from having the authority to cede the State's IP interests to anyone!

I can propose some possible solutions but the AG has to have the grow the cohanes, with Legislative direction, a mandate and the will to go after Aetna/Medicity now owned by CVS or we will never regain control of our \$50M investment and the effort will continue to falter.

STEP 1: Pass a bill that the PATIENT owns their own medical records, not the hospital, ACO, UVMHC nor OneCare. New Hampshire has done this already, being the only state to make explicit that a patient owns their own records! This necessary foundational step is what we need first in Vermont to then build an accountable HIE, VITL and Health IT Plan.

Do NOT proceed with a Bill that a default Opt-In to the HIE is necessary or it will backfire as a betrayal of public trust and privacy. Instead, consider launching an integrated economic development initiative toward a blockchain based secure and encrypted medical records WALLET framework available to every Vermonter and visiting customer of Vermont health care facilities. My podiatrist does not get access to my shrink's records nor vis versa, and any access granted is time limited and revocable. This is do-able.
In other words, LEAD! -sw

ACT 187 Requirement as passed:

(b) On or before September 1, 2018, the Department of Vermont Health Access and VITL shall submit to the House Committees on Appropriations, on Health Care, on Energy and Technology, and on Ways and Means; the Senate Committees on Appropriations, on Health and Welfare, and on Finance; the Health Reform Oversight Committee; the **Joint Information Technology Oversight Committee**; and the Green Mountain Care Board a contingency plan for health information technology to be used if the Department and VITL are unable to implement the recommendations from the Act 73

report. **The contingency plan shall contain the following:**

* * *

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

Excerpt from the September 1, 2018 Contingency Plan:

You call this COMPLIANCE?

VITL may have an ownership interest in certain Intellectual Property (IP) based upon the circumstances inherent in the development of such IP. **The documentation that CHA has been provided is not entirely clear** with respect to the chain of title to this IP. Also, **VITL is unclear** under which contract or grant IP ownership **may have been created** and, if created, what the correct chain of title would be for such IP. CHA believes that **further investigation would not conclusively resolve the question**. The team has concluded that **if such ownership in IP were created**, and if the IP is required for the operation of the VHIE, then this IP must be licensed by or assigned to a Future VHIE Operator.

If they don't do the work as required, they should not be paid!

Stephen Whitaker

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