

House Committee on Health Care

**Testimony on Vermont Health Information Exchange
Consent Policy for Sharing Patient Health Data
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(DVHA)**

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In **Vermont Act 73 of 2017**, the General Assembly called for an **evaluation of Health Information Technology in Vermont** with a focus on how the State and VITL manage matters related to Vermont's Health Information Exchange (VHIE). The evaluator noted that,

"A key purpose of an HIE is to provide users with a complete source of healthcare data that can be used to make informed healthcare decisions and improve outcomes. Healthcare providers who range from individual clinicians to practices to hospitals and systems need to be able to rely on the VHIE to provide a complete picture of their patients' healthcare ..."

"HIEs [Health Information Exchanges] that operate under an opt-out mechanism (patients' physical health data may be accessed in the HIE unless the patient specifically opts out), have many more patient records accessible to providers than HIEs that operate under an opt-in mechanism (patients' physical health data may be in the HIE but is not accessible unless a patient specifically states that their records can be shared/exchanged). HIEs that are opt-out typically have 2 - 4 percent of their population opting-out or 96 - 98 percent opted-in."

In **Vermont Act 187 of 2018**, the General Assembly called for DVHA to produce a **recommendation on whether patient consent to exchange health information should be on an opt-in or opt-out basis**. Ultimately, DVHA concluded that an opt-out policy would enable Vermont's HIE to effectively support the health care system.

The following are considerations related to Vermont's consent policy:

- When asked, over 95% of Vermonters agree to share their records with treating providers.
- Vermont is out-of-step with national policy trends. DVHA evaluated 40 other states and found that most other states have either opt-out consent policies or no consent requirement at all. Only 3 other states have the same type of opt-in consent policy as Vermont and 4 states have some mix of opt-out and opt-in; two of those states - Nevada and Rhode Island - are actively working to change their policies.

- Vermont stakeholders who support a change in consent policy believe an opt-out consent model would:
 - Increase the number of Vermonters whose records are accessible in the VHIE, making it a more valuable and useful resource for providers;
 - Reduce the administrative burdens and costs borne by health care organizations to capture and process consent; and
 - Support patient privacy and autonomy at least as well as the current model.
- Vermont’s information exchange goals and consent policy run counter to one another. For over a decade, the State has invested in the VHIE, a service that electronically transmits health records to treating providers. However, the consent policy severely limits the number of records in the VHIE. Under the current policy, 40% of Vermonters’ records are available.
- No legislative action is necessary to modify the current consent policy. The current opt-in consent model is embodied in a policy approved by the Agency of Administration and the Green Mountain Care Board.

March 2019 Consent Data from the VHIE
