



**STATE OF VERMONT**  
GENERAL ASSEMBLY

May 2, 2019

Kevin Mullin, Chair  
Green Mountain Care Board  
144 State Street  
Montpelier, VT 05602

Cory Gustafson, Commissioner  
Department of Vermont Health Access  
280 State Drive  
Waterbury, VT 05671-1010

Dear Chair Mullin and Commissioner Gustafson:

We appreciate the time you have provided us to further review the Department of Vermont Health Access's (DVHA) recommendations regarding the consent policy for sharing patient health information through the Vermont Health Information Exchange (VHIE). We have heard from individuals in favor of the State moving from an opt-in to an opt-out policy for the VHIE and from individuals who oppose such a change.

Regardless of whether the consent policy is opt-in or opt-out, there is a compelling need to ensure that all patients receive clear, uniform, up-front communication about the VHIE and what it does so that they can make an informed decision about whether to allow their health information to be shared through that medium. It is also imperative to ensure that patient health information in the VHIE is available only to those who should be viewing it, specifically health care providers in the course of their treatment of a patient. And it is essential that the privacy of this sensitive electronic information is safeguarded against potential data breaches.

After reviewing DVHA's recommendations and considering the testimony from interested stakeholders, we are persuaded that the most appropriate venue for determining the VHIE consent policy is in the context of the statewide Health Information Technology Plan maintained in accordance with 18 V.S.A. § 9351. As DVHA is responsible for coordinating, revising, and administering the Plan in consultation with its Health Information Exchange Steering Committee, DVHA and its Steering Committee should consider whether to change the consent policy for the next proposed Plan revision, which is due to the Green Mountain Care Board by November 1, 2019. As the Green Mountain Care Board is charged with approving, rejecting, or requesting modifications to the Plan, we recommend that the Board also consider the consent policy, as Chair Mullin

had indicated he was inclined to do, in advance of receiving the proposed Plan. We encourage DVHA and the Board to consult with interested stakeholders to understand all perspectives as you weigh the potential benefits to patients and providers of a robust exchange of electronic health information against the risks of unauthorized access to that information. We also request that DVHA and the Board keep the General Assembly informed of your respective determinations regarding the VHIE consent policy, including the status of deliberations and any potential changes to the statewide Health Information Technology Plan.

Sincerely,

[Name(s)]