

To: Senate Committee on Institutions

From: Beth Anderson, President & CEO, VITL

Date: March 13, 2025

Re: S. 71, An act relating to consumer data privacy and online surveillance

Thank you for the opportunity to provide input regarding S. 71, An act relating to consumer data privacy and online surveillance.

VITL is a Vermont non-profit organization. VITL is designated through 18 V.S.A. § 9352 to operate the Vermont Health Information Exchange (VHIE), a secure, statewide data network that gives health care organizations in Vermont the ability to electronically exchange and access their patients' health information in order to improve the quality, safety, and cost of patient care. In support of this work, we serve as a business associate¹ of many Vermont health care providers. This allows us to collect, match, and standardize patient data from health care organizations across the state, including hospitals, primary and specialty care providers, and Federally Qualified Health Centers, and to then make that data available to participating health care organizations on behalf of those organizations to inform providers' point-of-care decisions; to support payment activities; to improve and reform care; and to support public health efforts in service of all Vermonters. The foundation of our work is the security of patient data and ensuring appropriate access to that data. This includes honoring patients' rights and preferences.

Currently, all of the data VITL collects is considered and treated as protected health information (PHI), which we obtain as a business associate of covered entities across the state. This health data is maintained following the security and privacy requirements set out by the Health Insurance Portability and Accountability Act of 1996 (HIPAA). In addition, we follow further restrictions as outlined in the Services Agreements we enter into with the covered entities that submit data to VITL, VITL's policies, and the Protocols for Access to Protected Health Information on the VHIE that are included in the State's Health Information Exchange Strategic Plan.

The HIPAA Privacy Rule² sets national standards for the protection of protected health information, which must be followed by covered entities and their business associates. The Security Rule³ sets out national standards for how electronic protected health

¹ <https://www.hhs.gov/hipaa/for-professionals/privacy/guidance/business-associates/index.html>

² <https://www.hhs.gov/hipaa/for-professionals/privacy/laws-regulations/index.html#>.

³ <https://www.hhs.gov/hipaa/for-professionals/security/index.html>

information must be protected to ensure confidentiality, integrity, and availability. Together, these rules set stringent mandates on covered entities and business associates to ensure that data is not disclosed without a patient's consent. Health organizations across Vermont, including VITL, are required to follow these rules, which also include clear guidelines for enforcement.⁴ Implementing the requirements of these rules require a robust set of policies and practices at health care organizations, which come with significant annual costs.

As written, S.71 would create a new, different regulatory framework for data privacy that health care organizations would need to follow. These duplicative requirements would result in additional costs and administrative burdens to all covered entities and business associates. Further, it might cause confusing expectations for individuals about how the data related to their health is managed and shared.

VITL respectfully requests that the Committee support S.93, An act relating to consumer data privacy, as it includes an exemption for covered entities and business associates, which would allow us to continue to follow the stringent privacy and security framework that has been required of us through HIPAA. S.93 would progress important data privacy activities, while avoiding the additional cost and administrative burden that would be borne by health care organizations in maintaining a second privacy framework beyond the requirements of HIPAA.

Thank you for considering these comments. Please do not hesitate to contact me if you have any questions or would like additional information, banderson@vitl.net.

⁴ <https://www.hhs.gov/hipaa/for-professionals/special-topics/enforcement-rule/index.html>