

GREEN MOUNTAIN CARE BOARD
Data Governance Council
Tuesday, June 4, 2019
2:00 pm

Attendance (Voting Members)

Susan Barrett, Council Chair and Executive Director, GMCB
Tom Pelham, Board Member, GMCB
Lauri Scharf, Manager of Informatics, Bi-State Primary Care Association
Andrew Laing, Chief Data Officer, Agency of Digital Services
Cathy Fulton, Executive Director, VPQHC
Mary Kate Mohlman, Health Services Researcher, Blueprint for Health (*arrived 2:15pm*)

Others Present

Kate O'Neill, Chief Data Steward, GMCB
Lynn Combs, Associate General Counsel, GMCB
Sarah Lindberg, Health Services Researcher
Amerin Aborjaily, Associate General Counsel, GMCB
Eric Schultheis, HCA
Michael Durkin, BCBSVT
Matt Griffith, VAHHS-NSO

Call to Order, Chair's Report

Susan Barrett called the meeting to order at approximately 2:00 pm. Susan announced that a data use agreement for NORC was approved. The purpose of this DUA is to provide VHCURES data to support CMS's federal evaluation of the All-Payer Model to answer questions about model impact on population health outcomes, statewide spending across all payers, delivery system and process measures, other measures of health care utilization, spending and quality of care, and implementation challenges and successes. Susan also announced that GMCB is completing its staffing to fill vacant senior-level positions and hopes to have a recommendation to fill the DGC seat previously held by Pat Jones at the DCG's August meeting.

Approve December Meeting Minutes

The Council voted (5-0) to approve the April 2, 2019 minutes (Mary Kate absent from vote).

Public Records Laws and APCDs

Amerin Aborjaily provided an overview of public records laws and Vermont's Public Records Act (PRA) 1 V.S.A. §§ 315-320. Lynn Combs provided an overview of other states' approaches to APCD legislation, data collection and release, and interactions with public records laws, clarifying that the analysis and discussion focused on the confidential, claims-level data stored in APCDs, not aggregate reports and other analyses that state entities might prepare using the data. She shared recommendations from national organizations and language from Vermont's APCD statute, 18 V.S.A. § 9410(h)(2), which states that the release of Vermont's health care data shall be governed exclusively by HIPAA and related regulations. She discussed potential PRA exemptions that would also prohibit release of claims-level data maintained in VHCURES. Lynn advised that 18 V.S.A. § 9410 indicates the legislature intended that claims-level data be treated as confidential and subject to heightened protections, but also that to the extent permitted under HIPAA, the data be made available to other organizations to review issues related to health care. Accordingly, the GMCB should ensure any release of data is HIPAA compliant.

Council members reiterated that patient privacy is the highest priority, and it is important to balance privacy protection with allowing for thoughtful and ethical use of data. Cathy and Tom discussed situations in which confidential, personal information was sought, but due to privacy considerations they were unable to disclose the information.

Lauri inquired about litigation related to privacy breaches or inadvertent disclosure. Lynn advised that she was not aware of any lawsuits related to breaches of APCDs, but that it was not uncommon for health care providers to face liability to particular patients and also the federal government as a result of a data breach or other HIPAA violations.

Andrew inquired about the number of inquiries GMCB receives and potential actions the Council might need to take. Kate shared that while VHCURES data was requested under the PRA occasionally, requests were not frequent. Susan advised that this issue might be addressed in the upcoming draft of the data release rule or a possible request to change the statute, but the purpose of today's discussion was to get feedback from the Council and the public to help us inform whether further steps were needed.

Mary Kate brought up ownership of individual claims files—noting that while the records are in a State-owned database, the information was individuals' personal medical information, and information maintained by health care facilities, and payers. She also suggested experience with privacy in the context of the Family Educational Rights and Privacy Act (FERPA) could offer guidance in strengthening privacy protection. Andrew agreed that FERPA could be useful.

Lynn shared that GMCB is working on establishing specifications for a set of data files designed for more convenient analyses in order to expand public user access to and the utility of VHCURES.

Public Comment

Eric Schulteis shared that [IPUMS](#) from University of Minnesota has public use micro data samples, which may be worth looking into, and he requested that the Council stay mindful of the balance between data usefulness versus privacy. Mike Durkin from BCBSVT reminded the Council that there are additional data release restrictions and requirements in 42 CFR part 2.

GMCB Website Data and Analytics Webpages

Kate provided a brief overview of the GMCB's Data and Analytics section of the website and highlighted new and improved information and resources. She encouraged Council members to look over the website at their convenience and familiarize themselves with the available content.

Upcoming Meeting Schedule

Kate shared that the Council has some weighty topics on deck for Council discussion and decision-making: the VUHDDS data set, data linkage, and Rule revisions. She asked if the Council would be willing to add a September meeting to the Council's calendar. Council members agreed. Kate will add a new meeting date in September to be determined.

New Business

None.

Adjourn

The Council voted (6-0) to adjourn at approximately 3:30 pm.