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November 15, 2018

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

Dear Chair Mullin and Members of the Green Mountain Care Board:

Thank you for the opportunity to comment on Vermont's Health Information Exchange Strategic Plan for 2018-2019 (Plan). The Office of the Health Care Advocate (HCA) asks the Green Mountain Care Board (Board) to consider these comments when deciding to approve, reject, or modify the Plan per 18 V.S.A. § 9351(a)(2).

A necessary condition for Vermont's Health Information Exchange (HIE) to realize tangible progress, process transparency, and accountability, is that a broad range of interested stakeholders must be involved in developing the Plan. Indeed, this requirement is not merely 'common-sense' but is explicitly recognized by the Plan (Plan, 4).

The health care consumer is a fundamental interested stakeholder as the Plan deals with how consumers' private health information is electronically shared across the state. In addition, the Plan impacts the health care system and the patient experience, generally, and a major goal for 2018-2019 is to evaluate and revise, if deemed appropriate, Vermont's consent policy and to produce the consent report per Act 187 of 2018. Despite this interested stakeholder status, the Plan's Steering Committee did not include any health care consumer or consumer advocate as either a voting or non-voting member.

The HCA recognizes, given the near-final status of the Plan, that it is too late to include a health care consumer on the Steering Committee that produced the Plan. However, this failure makes it all the more vital that health care consumers are adequately represented going forward.

The recommended permanent HIE governing body voting membership is deficient because it does not provide adequate health care consumer representation.

The Plan proposes that the permanent HIE governing body voting membership consist of one "person who engages with the health care system." This recommendation problematic for two reasons. First, the recommended language that a "person who engages with the health care system" be on the permanent governing body as a voting member is too broad. The recommended language does not ensure that health care consumers are represented on the governing body as almost every person could be said to "engage with the health care system." There is, however, an example of improved language. The Board should require that the language regarding the consumer members of the permanent HIE governing body be the same as the board membership of the Vermont

The Office of the Health Care Advocate, previously named the Office of Health Care Ombudsman, is a special project of Vermont Legal Aid.

Information Technology Leaders, Inc. (VITL) as statutorily mandated by 18 V.S.A. § 9352(a); “the Board of Directors shall comprise of representatives... of health care consumers.”

Second, the recommended voting membership of the permanent HIE governing body results in the consumer perspective having only a trivial amount of power to direct the HIE relative to other voting stakeholder groups. The recommended board consists of nine voting members. Three voting members are from the state of Vermont. Two members, an Accountable Care Organization and a payer, are private organizations. Three members are providers. Only one member speaks for consumers despite the fact that the Board’s purpose is to plan sharing of consumer health information and at least one of the HIE’s major initiatives in the upcoming years is an issue that directly implicates consumer rights, namely, the consent policy. The Board should require that at least thirty percent of the permanent HIE governing body voting membership be composed of health care consumers to ensure adequate consumer representation.

Thank you for considering our comments. Please feel free to contact Eric Schultheis with any questions.

Sincerely,

\s\ Eric Schultheis, Ph.D.
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