

**STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD**

In re: Review of Amended 2019-2020 Health Information Exchange Strategic Plan and 2020 VHIE Connectivity Criteria

**DECISION AND ORDER APPROVING THE
AMENDED 2019-2020 HIE PLAN AND 2020 VHIE CONNECTIVITY CRITERIA**

Vermont law requires the Department of Vermont Health Access (DVHA) to revise the Health Information Exchange (HIE) Plan annually and to comprehensively update the HIE Plan every 5 years. 18 V.S.A. § 9351(a)(1). The Green Mountain Care Board (GMCB or Board) must review and approve the HIE Plan annually “to ensure that the necessary infrastructure is in place to enable the State to achieve the principles expressed in section 9371 of [Title 18].” 18 V.S.A. § 9375(b)(2)(A). The GMCB must also annually review and approve HIE connectivity criteria. *See* 18 V.S.A. § 9352(i)(2); 18 V.S.A. § 9375(b)(2)(B). In addition, Act 53 of 2019 requires the HIE Plan reflect an opt-out Vermont Health Information Exchange (VHIE) consent model as of March 1, 2020[†] – a significant change from the VHIE’s current opt-in consent model which remains in effect through February 29, 2020.

The Board approved the 2019-2020 HIE Plan, which includes the 2020 VHIE Connectivity Criteria, on November 20, 2019, with the condition that DVHA return to the Board prior to March 1, 2020, to “propose an addendum to the 2019-2020 HIE Plan (effective 3/1/2020) to reflect opt-out consent and document how opt-out consent will be managed.” The Board imposed this condition to ensure that the 2019-2020 HIE Plan remains consistent with state law through the VHIE’s transition from an opt-in to opt-out consent model.

At a public Board meeting on January 22, 2020, DVHA presented an addendum to the 2019-2020 HIE Plan (Appendix D, “Addendum to Health Information Exchange Plan: Protocols for Provider Access to Protected Health Information on VHIE”), intended to replace the 2014 VHIE consent policy and to conform the 2019-2020 HIE Plan to the requirements of Act 53 of 2019. DVHA also proposed amending the 2020 Connectivity Criteria in the approved 2019-2020 HIE Plan to include information which was presented to the Board in November 2019 but not included in the approved 2019-2020 HIE Plan.

In light of comments by the Board at the January 22nd meeting with regard to the use of deidentified data from the VHIE, DVHA and Board staff drafted and then proposed the following change to Section 3A of the proposed Appendix D (Protocols for Provider Access to Protected Health Information on VHIE) at the public Board meeting on February 5, 2020:

[†] *See* 18 V.S.A. §9351(a)(3)(B), eff. March 1, 2020

~~De-identified patient information may be used for research, quality review, population health management and public health purposes, as permitted by HIPAA. No commercial use or sale of such information is permitted.~~ De-identified patient information may be used for research, quality review, population health management and public health purposes. No re-identification of de-identified information shall be permitted, and de-identified information shall not be made available for any commercial use, including but not limited to the sale of such information or the use of such information for marketing purposes.

On February 5, 2020, following discussion and public comment, the Board unanimously voted to: (a) approve amending the 2019-2020 HIE Plan to include the additional information for Connectivity Criteria proposed by DVHA on January 22nd and to include Appendix D (Protocols for Provider Access to Protected Health Information on VHIE) with the language change proposed by DVHA and Board staff on February 5, 2020 (noted above); and (b) sunset the 2014 HIE Consent Policy on February 29, 2020.

The Board finds that the amended HIE Plan is consistent with the Board’s principles for review of the HIE Plan. Specifically, the Board finds that the amended HIE Plan: (1) is consistent with the requirements of 18 V.S.A. § 9351; (2) is consistent with the Principles for Health Care Reform in 18 V.S.A. § 9371 and will help achieve the State’s health reform goals; (3) is consistent with other relevant legislation (including sections 4 and 5 of Act 53 of 2019); and (4) incorporates national best practices and expertise as well as feedback from Vermonters, including key HIE constituents (VITL, State of Vermont HIE stakeholders, and other private HIE providers), health care providers, and individuals seeking care.

SO ORDERED.

Dated: February 21, 2020 at Montpelier, Vermont

<u>s/ Kevin Mullin, Chair</u>)	
)	
<u>s/ Jessica Holmes</u>)	GREEN MOUNTAIN
)	CARE BOARD
<u>s/ Robin Lunge</u>)	OF VERMONT
)	
<u>s/ Tom Pelham</u>)	
)	
<u>s/ Maureen Usifer</u>)	

Filed: February 21, 2020

Attest: s/ Jean Stetter, Administrative Services Director
Green Mountain Care Board