

Policy on Secondary Use of PHI Data on VHIE by Health Plans and ACOs  
Including Quality Review

Definitions:

“Accountable Care Organization” (“ACO”) shall mean a legal entity that is recognized and authorized under applicable state and federal law, is identified by a tax identification number and is formed by one or more providers that agree to work together to be accountable for providing coordinated high quality care to patients as established and authorized by the applicable federal, state or private health plan program contracting with the ACO.

“Data” means the patient record data elements relevant to the scope of work of VITL pursuant to its VHIE Service Agreements with Participating Health Care Providers to make such elements available on the VHIE and includes all written or electronic patient information relating to the patient’s identity or to the patient’s medical history, diagnosis, treatment, tests or prognosis which is accessible to a Participating Health Care Providers in the VHIE. Such Information may include, but not be limited to, admission, discharge, transfer, medical, prescription, billing, and/or other data for patients seen, or provided laboratory services or prescription medication, at a Health Care Provider’s facilities or offices.

“Exchange” or “The Vermont Health Information Exchange” (“VHIE”) shall mean the health information exchange network operated by VITL.

“Health Care Operations” shall mean activities of a Participating Health Care Provider providing Treatment to an individual relating to quality assessment and improvement, evaluations relating to the competence of treating providers or necessary management and administrative activities all as defined in the HIPAA Privacy Regulations, 45 CFR §164.501.

“Health Plan” shall mean a group health plan, health insurance company, health maintenance organization, a government health program, employee health benefit plan or other third party payer of health care as defined in the HIPAA Privacy Regulations, 45 CFR 160.103 and who qualify as a Covered Entity under 45 CFR 160.103.

“HIPAA Privacy and Security Regulations” means the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. Parts 160 and 164 and the Security Standards for the Protection of Electronic Protected Health Information at 45 C.F.R. Parts 160 and 164.

“Participating Health Care Organization” means a hospital, medical practice, physician practice, home health care agency or other health care provider, who has entered into a VHIE Services Agreement with VITL to participate in the exchange of Data on the VHIE.

“Protected Health Information” (“PHI”) shall mean identifiable personal information in any form or medium about the past, present or future physical or mental health or condition of an individual as defined in the HIPAA Privacy Regulations, 45 CFR § 160.103.

“Quality Review” shall mean the review of Data by Health Plans or Accountable Care Organizations for the purpose of disease management, utilization review or quality assessment or improvement. Utilization review includes precertification and preauthorization of services, concurrent and retrospective review of services. It does not include post-payment audits of services rendered.

“Treatment” shall have the definition assigned to it by the HIPAA Privacy and Security Regulations at 45 C.F.R. § 164.501, namely the provision, coordination, or management of health care and related services by one or more health care providers, including but not limited to, services for the diagnosis, prevention, cure or relief of a health care injury or disease. It may also include the coordination or management of health care by a health care provider with a third party, consultation between health care providers relating to a patient, or the referral of a patient for health care from one health care provider to another.

“Vermont Health Information Exchange” or “VHIE” means the Vermont Health Information Exchange, an integrated electronic health information infrastructure for the sharing of PHI and Data among Participating Health Care Organizations.

## Policy

### Secondary Use of PHI Data

Consistent with the current Protocols for Access to Protected Health Information on VHIE, approved by the Green Mountain Care Board as of December 2, 2020, PHI and Data as defined herein shall be made available on the Exchange only for the purposes of Treatment, payment and Health Care Operations as permitted under state and federal law, including for public health purposes with authorized public health authorities, unless the patient has affirmatively elected not to have the patient’s electronic health information shared on the Exchange. PHI and Data on the Exchange may be made available by VITL to Health Plans or Accountable Care Organizations for purposes related to the Treatment, payment, and Health Care Operations, including Quality Review, of their beneficiaries or attributed lives under a Data Use Agreement between VITL and a Health Plan or Accountable Care Organization as set forth below.

### VITL Approval and Data Use Agreements

In the event that access to Data on the Exchange is requested by a Health Plan or Accountable Care Organization (“Recipient Organization”), VITL may provide the Recipient Organization access to Data on the Exchange for its beneficiaries or attributed lives who receive treatment in Vermont so long as it enters into a written VHIE Data Use Agreement with VITL which obligates the Recipient Organization to the following provisions:

- to use and limit access to the Data only for its beneficiaries or attributed lives for purposes related to Treatment, payment and Health Care Operations, including Quality Review, subject to minimum necessary requirements as provided in the HIPAA Privacy and Security Regulations;
- to use and maintain appropriate safeguards to prevent use, access, or disclosure of VHIE Data other than as permitted by the Data Use Agreement or required by law;
- to comply with the HIPAA Privacy and Security Regulations and all other applicable federal and state laws and regulations protecting the confidentiality of PHI;
- to designate staff who may access the Exchange for Data for permitted purposes as described in this Policy;
- to maintain policies and procedures for the appropriate access, training, and discipline of staff with regard to access to the Exchange;
- to maintain policies and procedures to prohibit any discrimination against an individual who has opted out of the Exchange;
- to acknowledge that no PHI for care for which an individual has self-paid and that is subject to the individual's requested restriction to prevent disclosure to a Health Plan will be released from the Exchange;
- to update its Notice of Privacy Practices and/or beneficiary information, to describe its use of Data from the Exchange for Treatment, payment, or health care operation purposes relating to its beneficiaries or attributed lives only;
- to agree that it is prohibited from processing, transmitting, storing or transferring any Data from the Exchange by any means outside of the Continental United States, without the express written permission of VITL;
- to comply with the VHIE policies and procedures as updated from time to time; and
- to agree to update its Data Use Agreement with VITL when necessary to comply with any changes to the terms and conditions for accessing Data on the Exchange as provided in the Participating Health Care Organization VHIE Services Agreement or with any requirements of the Green Mountain Care Board or other Vermont Agency or as a result of changes in state or federal law.