



# Rhode Island HIT Steering Committee

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September 23, 2021

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# Agenda

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- Welcome & Introductions
- Review of the Minutes
- Brief Updates
- Discussions:
  - Next Steps: CDC Health Disparities Grant to RI Department of Health
  - CurrentCare - Opt Out Legislation Implementation
    - 1.Regulatory Process Overview and Scope
    - 2.HIE Advisory Commission Role
    - 3.Future Engagement Opportunities
- Next Steps and Next Meeting
- Public Comment



# Next Steps: CDC Health Disparities Grant to RI Department of Health

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# Context: CDC Health Disparities Grant

*“National Initiative to Address COVID-19 Health Disparities Among Populations at High-Risk and Underserved, Including Racial and Ethnic Minority Populations and Rural Communities”.*

**Purpose:** Address COVID-19-related health disparities and advance health equity by expanding state health department capacity and services to prevent and control COVID-19 infection (or transmission) among populations at higher risk and that are underserved

## 4 Grant Strategies:

1. Expand existing and/or develop new mitigation and prevention resources and services to reduce COVID-19 related disparities among populations at higher risk and that are underserved
2. Increase/improve data collection and reporting for populations experiencing a disproportionate burden of COVID-19 infection, severe illness, and death to guide the response to the COVID-19 pandemic
3. Build, leverage, and expand infrastructure support for COVID-19 prevention and control among populations that are at higher risk and underserved
4. Mobilize partners and collaborators to advance health equity and address social determinants of health as they relate to COVID-19 health disparities among populations at higher risk and that are underserved

## Strategy 2, Activity 2:

**Strengthening Rhode Island’s Data Infrastructure** – Improving data collection at the source through training and trust-building with the community.

# #2) Strengthening Rhode Island's Data Infrastructure

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*Activity 2: Improving data collection at the source through training and trust-building with the community*

Planning work for this activity in three key areas / settings:

## 1) Healthcare and clinical settings

- Sites of data collection (prioritized based on gaps)
- Frontline staff engagement and training
- Materials and supports

## 2) Technical / Infrastructure

- data collection, coding, aggregation, reporting, and analysis
- Potential system improvements (ex. Types of demographic questions collected, how stored and reported)

## 3) Community

- Training, engagement, trust-building
- Communication materials

# Feedback, Discussion, and Ways to Engage

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- What is already happening?
  - What are the current or recent initiatives? What processes, best practices or successes do you have to lift up?
  - Do you have any documents or resources to share with us?
  - What are the biggest challenges and barriers you are facing with this?
- Who should be engaged?
  - Who are the best contact people at your organizations?
  - Who is directly engaged in data collection, reporting, etc.?
- What other recommendations or suggestions do you have?

# CurrentCare



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Opt-Out Legislation Implementation

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# Regulatory Process Overview and Scope

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- **Advance Notice of Proposed Rulemaking (ANPR) (Optional Step)**
  - A “dress rehearsal” for the regulation process
  - Allows for additional comments from the public
  - Public engagement is through Community Reviews
- **Office of Regulatory Reform (ORR) Phase I (Required)**
  - ORR has 30 days to review all regulations and applicable documents for intent, compliance with state and federal laws, and economic impact
  - ORR must clear the regulation in order to proceed with public comment phase
- **Public Comment Period (Required)**
  - Regulations must solicit public feedback for a minimum of 30 days

# Regulatory Process Overview and Scope

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- **Hearing (optional)**
  - Only required if 25 people or an organization representing 25 or more people request one
  - Must occur ten days after start of public comment and five days before end of public comment
- **Post-Comment Drafting (Required)**
  - OHR and Program review all comments received and must respond to each comment in the concise explanatory statement
- **ORR Phase II (Required)**
  - ORR has up to 30 days to review the post-comment draft, comments, and concise explanatory statement are reviewed
- **Filing with Secretary of State (SOS) (Required)**
  - Regulation becomes effective 20 days after filing all document with SOS

# HIE Advisory Commission Role

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## ***Current Regulation:***

### ***5-37.7-5. Regulatory oversight***

*The HIE advisory commission, in consultation with the RHIO, will be responsible for recommendations relating to the department regarding the use of, and appropriate confidentiality protections for, the confidential healthcare information of the HIE.*

## ***Statute Change:***

*[...] Notification and opt out procedures shall be developed in consultation with the HIE advisory commission and provided in regulations promulgated in accordance with § 5-37.7-5.*

# Future Engagement Opportunities

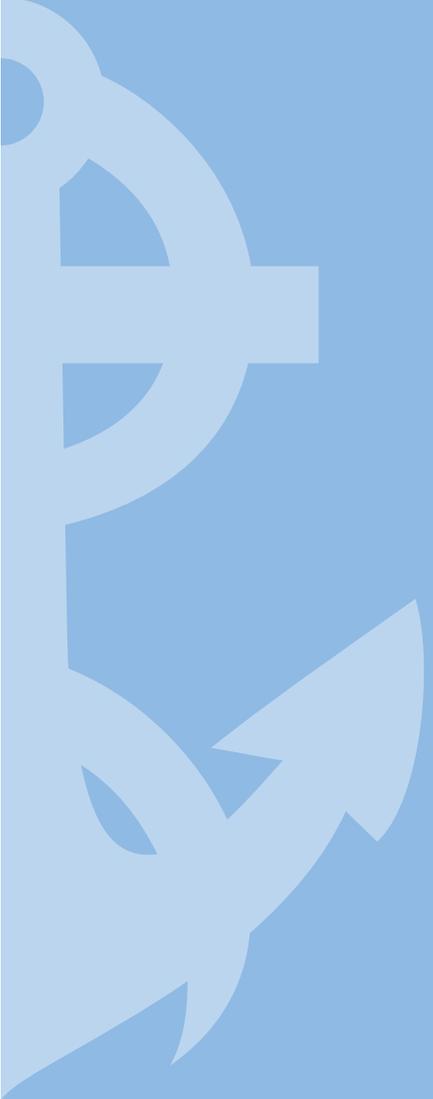
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- HIT Steering Committee
- HIE Advisory Commission
- Stakeholder Interviews
- Regulatory Public Hearings and Comment Periods
- Other committee and group meeting recommendations – Where else should we engage?

# Q&A and Steering Committee Input

# Discussion Questions

- As we think about the coming Opt-Out regulatory process:
  - What changes in the process of adding new CurrentCare members would be most helpful to you and your organization or the patients or members you serve?
  - Are there any changes you can foresee that might negatively impact your organization – or your patients/members?
  - We also want to talk about the provider's role in this process. How do you see this as part of your workflow? What would providers need to best implement informing their patients about the change?



# NEXT STEPS for the HIT STEERING COMMITTEE

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Next Meeting: October 21<sup>st</sup> at 4:00 pm

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# Appendix

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## Law & Regulations Crosswalk

# Law & Regulations

## STATUTE

### 5-37.7-7.Disclosure

Patients shall be notified of their right to opt out of having their confidential health care information disclosed from the HIE through the process provided by regulation in accordance with 5-37.7-5.

[...] The method for opting out shall be provided by regulation in accordance with 5-37.7-5.

(c) Provider participants that share data with the HIE shall notify their patients that data is being shared with the HIE to support the provision of care, and inform their patients about the ability to opt out. At a minimum, the notification shall contain the following information in a clear and concise manner:

- (1) A statement that the patient's provider is a provider participant in the HIE, and as such may share the patient's confidential health care information through the HIE as permitted by this chapter and all applicable state and federal law.
- (2) A statement that the patient may opt out of having their confidential health care information disclosed from the HIE except as provided pursuant to 5-37.7-7(b).
- (3) A statement that a patient's choice to opt out of disclosing their confidential health care information from the HIE may be changed at any time.

# Law & Regulations

## CURRENT REGULATION

Individuals shall be informed about the opportunity to enroll in the HIE through provider participants and other publicly available means. Individuals will be informed about the HIE through materials that explain the context and process of HIE enrollment, including any and all choices available to the individual such as identifying which provider participants will be able to view their health care information through the HIE.

Individuals will be informed that by enrolling in the HIE, at a minimum, they are authorizing health care providers that care for them in emergencies or other unscheduled events, to access their health information through the RI HIE on a temporary basis. Individuals will also be informed that in addition to the ability to terminate enrollment in the HIE, they have the ability to revoke authorization of a provider participant to further access their health information through the HIE consistent with § 6.5.1 of this Part.

The RHIO shall maintain a dedicated telephone number staffed with qualified personnel who can respond to individuals' questions related to enrollment choices and processes. If there are remaining concerns or complaints after contacting the RHIO, individuals can contact the Department of Health "Health Information Line."

[...] To terminate his or her participation in the HIE at any time in accordance with the Act and this Part by submitting a Revocation of Authorization form to the RHIO. The form and methods for termination shall be publicly available through posting on the HIE website ([www.currentcareri.org](http://www.currentcareri.org)) or the patient participant or authorized representative may call the RHIO to request a form be sent to them.

# Exceptions

## STATUTE

*(b) The opt out does not apply to disclosures in the following situations:*

- (1)** To a healthcare provider who believes, in good faith, that the information is necessary for diagnosis or treatment of that individual in an emergency; or
- (2)** To public-health authorities to carry out their functions [...] which] include, but are not restricted to, investigations into the causes of disease, the control of public-health hazards, enforcement of sanitary laws, investigation of reportable diseases, certification and license of health professionals and facilities, review of health care such as that required by the federal government and other governmental agencies, and mandatory reporting laws set forth in Rhode Island general laws; or
- (3)** To the RHIO in order for it to effectuate the operation and administrative oversight of the HIE; and
- (4)** To a health plan, if the information is necessary for care management of its plan members, or for quality and performance measure reporting.

## CURRENT REGULATION

Upon a patient participant's completed termination of enrollment from the HIE, no additional confidential health information for that patient will be collected by the HIE and the patient's confidential health information in the HIE will no longer be accessible to a provider participant.

# Policies and Procedures

## CURRENT REGULATION

A. [...] The RHIO shall develop and implement current policies and procedures including, but not limited to, the following topics:

1. Participant enrollment (health care provider, health plan, and individual) that is consistent with § 6.3.1(A)(1) of this Part;
2. Patient participant's termination of enrollment that is consistent with §§ 6.3.1(A)(1) and 6.5 of this Part;
3. Termination of patient participant authorization for provider participant access that is consistent with § 6.5.1(A)(5) of this Part;
4. Handling patient participant complaints and inquiries that is consistent with § 6.3.1(A)(2) of this Part;
5. The process through which a patient participant can obtain a copy of his or her confidential health information from the HIE that is consistent with § 6.5.1(A)(1) of this Part;
6. The process through which a patient participant can obtain a copy of the disclosure report pertaining to his or her confidential health information consistent with § 6.5.1(A)(4) of this Part;
7. Patient participant requests to amend his or her own information through the provider participant consistent with § 6.3.3(A)(2) of this Part;

8. Tiered access to confidential health information (i.e., criteria and controls to obtain varying degrees of access to data maintained by the HIE) consistent with § 6.3.3 of this Part;
9. Privacy, confidentiality and security pertaining to access and maintenance of patient participant confidential health information consistent with §§ 6.5 and 6.6 of this Part;
10. Temporary access to HIE data by provider participants that need to treat a person in emergencies or other unanticipated events consistent with § 6.3.1(A)(1) of this Part; and
11. Patient participant notification, if required by either R.I. Gen. Laws Chapter 11-49.3 [Rhode Island Identity Theft Protection Act of 2015] or the HIPAA Final Omnibus Rule, regarding a detected breach of the security of the system of the HIE that may have resulted in the unauthorized access, use or disclosure of protected health information, personal information or Unsecured Protected Health Information consistent with § 6.5.1(A)(5) of this Part.

B. The RHIO shall utilize a committee structure that encourages community involvement and transparency in the process of the development and implementation of its policies.

# Authorized Representatives

## STATUTE

### 5-37.7-7.Disclosure

(a)(1) Except as provided in subsection (b), a patient or the patient's authorized representative may opt out of having their confidential healthcare information disclosed from the HIE.

## CURRENT REGULATION

"Authorized representative" means:

- a. A person empowered by the patient participant to assert or to waive confidentiality, or to disclose or authorize the disclosure of confidential information, as established by this Part. That person is not, except by explicit authorization, empowered to waive confidentiality or to disclose or consent to the disclosure of confidential information; or
- b. A person appointed by the patient participant to make health care decisions on his or her behalf through a valid durable power of attorney for health care as set forth in R.I. Gen. Laws § 23-4.10-2; or
- c. A guardian or conservator, with authority to make health care decisions, if the patient participant is decisionally impaired; or
- d. Another legally appropriate medical decision maker, temporarily, if the patient participant is decisionally impaired and no health care agent, guardian or conservator is available; e. If the patient participant is deceased, his or her personal representative or, in the absence of that representative, his or her heirs-at-law;
- e. A parent with the authority to make health care decisions for the parent's child; or
- f. A person authorized by the patient participant or their authorized representative to access their confidential health information from the HIE, including family members or other proxies as designated by the patient, to assist patient participant with the coordination of their care.

# Security Measures

## STATUTE

### 5-37.7-8. Security.

The HIE must be subject to at least the following security procedures:

1. Authenticate the recipient of any confidential healthcare information disclosed by the HIE pursuant to this chapter pursuant to rules and regulations promulgated by the department;
2. Limit authorized access to personally identifiable confidential healthcare information to persons having a need to know that information; additional employees or agents may have access to de-identified information;
3. Identify an individual or individuals who have responsibility for maintaining security procedures for the HIE;
4. Provide an electronic or written statement to each employee or agent as to the necessity of maintaining the security and confidentiality of confidential healthcare information, and of the penalties provided for in this chapter for the unauthorized access, release, transfer, use, or disclosure of this information; and
5. Take no disciplinary or punitive action against any employee or agent for bringing evidence of violation of this chapter to the attention of any person.

## CURRENT REGULATION

### 6.6 Security Requirements

#### 6.6.1 Minimum Security Requirements

The RHIO and HIE shall implement security procedures pursuant to R.I. Gen. Laws § 5-37.7-8.

#### 6.6.2 Safeguards and Security Measures

The RHIO shall have in place appropriate physical, technical and procedural safeguards and security measures to ensure the technical integrity, physical safety, and confidentiality of any confidential health information in the HIE. These safeguards and security measures shall be in place at all times and at any location at which the RHIO, its workforce members, or its contractors hold or access confidential health information. Such safeguards and security measures shall comply with state and federal confidentiality laws and regulations including, without limitation, the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations (45 C.F.R. §§ 160 through 164), HITECH and the HIPAA Final Omnibus Rule.

#### 6.6.3 Security Framework

The RHIO shall develop appropriate and scalable security standards, policies, and procedures that are suitable for the size and complexity of its organization.

[... continues through 6.6.7]