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Health Information Exchange (HIE) Advisory Commission

Background on Public Health Access to CurrentCare

Potential scenarios:

- A state medical examiner is conducting a public health investigation. The RI state medical examiner's office is not a law enforcement function and does not conduct criminal investigations. The medical examiner only investigates the cause of death.
- Infectious disease personnel are verifying that they received all reports of a disease
- The Pharmacy Board funds Brown University researchers to conduct a study on opioid use during pregnancy.
- An outside researcher would like to study emergency department readmissions and would like an extract of patient data.
- DOH staff evaluate whether Lyme Disease outreach at the beginning of tick season increased the number of prophylactic antibiotics prescribed in high risk areas.

How CurrentCare data could be shared with RIDOH:

1. Aggregate data requests (i.e. % of CurrentCare enrollees who have diabetes, % of CurrentCare enrolled diabetics whose A1c is <8, etc.) *These are considered de-identified, however re-identification could happen in a scenario with small cell sizes.*
2. Lists of patients (i.e. all patients who had a positive chlamydia test in last 90 days.)
3. Specific record requests on paper (RIDOH staff request the full paper CurrentCare record for a specific patient - 1 week processing)
4. CurrentCare Viewer (individual records)
5. CurrentCare Analytics Tool (Future)

Questions to answer:

- What criteria should be used to determine if data should be released to RIDOH?
- Should RIDOH release HIE data to research partners under a DUA, as long as they are performing a public health function for RIDOH?
- Does the proposed flow chart seem reasonable? Are there recommendations to adjust any component of this flow chart?

Suppression:

Certain data may need to be suppressed. An example is if cell sizes are too small to maintain confidentiality or ensure statistical reliability in a de-identified data set. Suppression is typically not necessary for datasets under a Data Use Agreement (DUA) with RIDOH. The DUA

normally states that suppression pre-publication is the responsibility of the data receiver. Also any attempt at re-identification is strictly prohibited.

Potential Criteria:

- Purpose
 - Aligned with functions of public health in RI
 - Intended to improve health outcomes
 - Evaluate the effectiveness of programs
- Institutional Review Board (IRB) approval (both RIDOH IRB or external) (if applicable)
- Data management and security policies
 - Storage
 - Access
 - Destruction once work is complete
- Patient consent (if applicable)
- Other ideas?

Included Attachments:

Attachment 1: Legal Excerpts

Attachment 2: Chapters of RI Law which apply to public health functions

Attachment 3: RIDOH Organizational Chart

Attachment 4: Potential data release flow chart

Attachment 1:
Legal excerpts

Definitions:

De-identified

Law: No definition provided

Regs: "De-identified information" means health information that is not individually identifiable, does not contain any elements that could identify an individual, and could not be used to identify an individual.

Confidential Health Information (both are the same)

Law: "Confidential health care information" means all information relating to a patient participant's health care history, diagnosis, condition, treatment, or evaluation.

Regs: "Confidential health information" means all identifiable information relating to a patient participant's health care history, diagnosis, condition, treatment, or evaluation.

Protected Health Information:

Law: No definition provided

Regs: "Protected Health Information" means individually identifiable health information including demographic information that is collected from an individual and is created or received by a health care provider, health plan, employer or health care clearinghouse that relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual.

Legislative references:

The HIE Act of 2008 (RIGL [§ 5-37.7-7](#)) has a provision allowing access to CurrentCare to public health authorities in order to carry out their functions. RIGL [§ 5-37.7-7](#) specifically states:

(b) No authorization for release or transfer of confidential health care information from the HIE shall be required in the following situations:

...

(2) To public health authorities in order to carry out their functions as describe in RIGL Titles 5, 21 and 23, and rules promulgated under those titles. **These functions 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 licensure 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.

This clause references RIGL Titles 5, 21 and 23. *See Attachment 2 for full list of applicable chapters.* Those titles include:

- **Title 5: Businesses and Professions:** Mostly establishes professions and facility regulatory rules.

Also contains the RI HIE Act and **5-37.3: Confidentiality of Health Care Communications and Information Act** which states:

§ 5-37.3-4 Limitations on and permitted disclosures. – (a)(1) Except as provided in subsection (b) of this section, or as specifically provided by the law, a patient's confidential health care information shall not be released or transferred without the written consent of the patient, or his or her authorized representative, on a consent form meeting the requirements of subsection (d) of this section. A copy of any notice used pursuant to subsection (d) of this section, and of any signed consent shall, upon request, be provided to the patient prior to his or her signing a consent form. Any and all managed care entities and managed care contractors writing policies in the state shall be prohibited from providing any information related to enrollees that is personal in nature and could reasonably lead to identification of an individual and is not essential for the compilation of statistical data related to enrollees, to any international, national, regional, or local medical information database. **This provision shall not restrict or prohibit the transfer of information to the department of health to carry out its statutory duties and responsibilities.**

and

(c) Third parties receiving, and retaining, a patient's confidential health care information must establish at least the following security procedures:
(1) Limit authorized access to personally identifiable, confidential health care information to persons having a "need to know" that information; additional employees or agents may have access to that information that does not contain information from which an individual can be identified;
(2) Identify an individual, or individuals, who have responsibility for maintaining security procedures for confidential health care information;

- **Title 21: Food and Drugs** – Regulations regarding food and drugs in the state and designation of RIDOH's authority, including
- **Title 23: Health and Safety:** Describes various mandated components/divisions of RIDOH, their purposes and roles, and establishes law on specific health topics (such as alcoholism, public access to defibrillation, mosquito abatement, etc.)

Regulatory References:

Excerpts from: Rules and Regulations Pertaining to the Regional Health Information Organization and Health Information Exchange – Amended June 2014

- Section 3.0 HIE Advisory Commission
 - 3.1 Pursuant to RIGL §5-37.7-5(c), the Director shall establish a HIE Advisory Commission of no more than nine (9) members that shall be responsible for recommendations relating to the type of and use of, and appropriate confidentiality protection for, the confidential health information of the HIE, subject to regulatory oversight by the Department. The HIE Advisory Commission shall be responsible for recommendations to the Department, and in consultation with the RHIO, regarding the use of the confidential health information.

- Section 4.2 Confidentiality Protections
 - (a) A patient participant's confidential health information may only be accessed, released or transferred from the HIE if the patient participant has enrolled in the HIE and in accordance with an enrollment/authorization form signed by the patient participant or the patient's authorized representative. **No additional patient participant authorization is required in the following instances:**
 - (1) To a health care 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 in order to carry out their functions as described in RIGL Titles 5, 21 and 23, and rules promulgated under those titles. These functions 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 licensure 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; and

Attachment 2:

Chapters of RI Law which apply to public health functions:
(*non-applicable and repealed/transferred chapters are not listed here.*)

Title 5: Businesses and Professions:

5-10 Barbers, Hairdressers, Cosmeticians,
Manicurists, and Estheticians
5-19.1 Pharmacies
5-19.2 Collaborative pharmacy practice
5-25 Veterinary Practice
5-26 Division of Professional Regulation (at RIDOH)
5-29 Podiatrists
5-30 Chiropractic Physicians
5-31.1 Dentists and Dental Hygienists
5-32 Electrolysis
5-33.1 – 5.33.3 Funeral Director, Funeral planning,
etc.
5-34 Nurses
5-34.2 Nurse Anesthetists
5-34-3 Nurse Licensure Compact
5-35.1 Optometrists
5-35.2 Opticians
5-37 Board of Medical Licensure and Discipline
5-37.2 The Healing Art of Acupuncture
5-37.3 Confidentiality of Health Care
Communications and Information Act
5-37.4 Intractable Pain Treatment
5-37.5 Lyme Disease Diagnosis and Treatment
5-37.6 Pain Assessment Act
5-37.7 Health Information Exchange Act of 2008
5-39.1 License Procedure of Social Workers
5-40 Physical Therapists
5-40.1 Occupational Therapy
5-44 Psychologists
5-45 Nursing Home Administrators
5-48 Speech Pathology and Audiology
5-48.1 Patient Protection Act
5-49 Hearing Aid Dealers and Fitters
5-54 Physician Assistants
5-59.1 Orthotics and Prosthetics Practices
5-60 Athletic Trainers
5-63.1 Reporting of Sexual misconduct by mental
Health Professionals
5-63.2 Mental Health Counselors and Marriage and
Family Therapists
5-64 The Licensed Dietician
5-64.1 Dietary managers
5-68.1 Radiologic Technologists
5-69 License Procedure for Chemical Dependency
Professionals
5-71 Interpreters for the Deaf
5-86 Licensing of Applied Behavior Analysts

Title 21: Food and Drugs – Regulations regarding
food and drugs in the state and designation of
RIDOH's authority, including

21-1 to 21-27.1 Food Safety and disposal.
21-28 Uniform Controlled Substances Act
21-28.1 Narcotic Guidance Council
21-28.2 Drug Abuse Control
21-28.3 Drug Abuse Reporting System
21-28.4 Controlled Substances Therapeutic Research
Act.
21-28.5 Sale of Drug Paraphernalia
21-28.6 The Edward O. Hawkins and Thomas C.
Slater Medical Marijuana Act
21-28.7 Possession and Trafficking in
Dextromethorphan
21-28.8 The Good Samaritan Overdose Prevention
Act
21-29.1 Re-Use of Syringes
21-36 The Inter-Agency Food & Nutrition Policy
Advisory Council

Title 23: Health and Safety: Describes various
mandated components/divisions of RIDOH, their
purposes and roles, and establishes law on specific
health topics (such as alcoholism, public access to
defibrillation, mosquito abatement, etc.)

23-1 Department of Health
23-1.1 Division of Occupational Health
23-1.2 Division of Legal Services
23-1.3 Radiation Control
23-1.8 Commission on the Deaf and Hard-of-Hearing
23-1.10 Alcoholism
23-1.11 Needlestick Safety and Injury Prevention Act
23-3 Vital Records
23-4 Office of State Medical Examiners
23-4.1 Emergency medical Transportation Services
23-4.5 Blood Bank Services
23-4.6 Consent to Medical and Surgical Care
23-4.7 Informed Consent for Abortion
23-4.8 Spousal Notice for Abortion
23-4.9 Retention fo X-rays
23-4.10 Health Care Power of Attorney
23-4.11 Rights of the Terminally Ill Act
23-4.12 Partial Birth Abortions

- 23-5 Reports of Disease and Disability
- 23-5.1 Identification of Persons Suffering from Certain Disabilities
- 23-6 Prevention and Suppression of Contagious Diseases
- 23-6.1 Cardiopulmonary Resuscitation Training Program in High Schools
- 23-6.2 Public Access Defibrillation
- 23-6.3 Prevention and Suppression of Contagious Diseases – HIV/AIDS
- 23-6.4 Life-Saving Allergy Medication – Stock Supply of Epinephrine Auto-injectors – Emergency Administration
- 23-7 Mosquito Abatement
- 23-7.1 Rodent Control and Eradication
- 23-8 Quarantine Generally
- 23-9 Quarantine of Vessels
- 23-10 Tuberculosis
- 23-10.1 Emergency Commitment for Drug Intoxication
- 23-11 Sexually Transmitted Diseases
- 23-12 Cancer
- 23-12.1 Hemophilia Care Program
- 23-12.5 New England Compact on Radiological Health Protection
- 23-12.6 Ovarian Cancer Education, Detection, and Prevention
- 23-12.7 The Breast cancer Act
- 23-12.8 The Firefighter Cancer Wellness Act
- 23-12.9 Dense Breast Notification and Education
- 23-13 Maternal and Child Health Services for Children with Special Health Care Needs
- 23-13.1 The Safe Haven for Infants Act
- 23-13.2 Nursing Working Mothers
- 23-13.3 Birth Defects Surveillance and Information System
- 23-13.4 Hazardous Chemicals – Contamination of Breast Milk and Environment
- 23-13.5 Breastfeeding in Public Places
- 23-13.6 Lactation Consultant Practice Act of 2014
- 23-14 Childhood Disease Fund
- 23-14.1 Health Professional Loan Repayment Program
- 23-15 Determination of Need for New Health Care Equipment and New Institutional Health Services
- 23-16 Health Facilities Construction
- 23-16.1 New England Health Services and Facilities Compact
- 23-16.2 Laboratories
- 23-16.3 Clinical Laboratory Science Practice
- 23-16.4 Human Cloning
- 23-17 Licensing of Health Care Facilities
- 23-17.2 Accountability of Services to Patients of Nursing or Personal Care Homes
- 23-17.3 Long-term Care Coordinating Council
- 23-17.4 Assisted Living Residence Licensing Act
- 23-17.5 Rights of Nursing Home Patients
- 23-17.6 Mobile Intensive Care Unit Program
- 23-17.7.1 Licensing of Nursing Service Agencies
- 23-17.8 Abuse in Health Care Facilities
- 23-17.9 Registration of Nursing Assistants
- 23-17.10 Administrative Penalties
- 23-17.11 The Nursing Facilities Receivership Act
- 23-17.12 Health Care Services – Utilization Review Act
- 23-17.13 Health Care Accessibility and Quality Assurance Act
- 23-17.14 The Hospital Conversions Act
- 23-17.15 Long-Term Health Care Goals And Values
- 23-17.16 Home Care Patient Rights
- 23-17.17 Health Care Quality Program
- 23-17.18 Health Plan Modification Act
- 23-17.19 Immunization In Long Term Care Facilities
- 23-17.20 Health Care Facilities Staffing
- 23-17.21 The Rhode Island Patient Safety Act of 2008
- 23-17.22 Healthy Rhode Island Reform Act of 2008
- 23-17.23 Center for Health Professions
- 23-17.24 The Adult Supportive Care Residence Act
- 23-17.25 Distressed Essential Community Hospitals
- 23-17.26 Comprehensive Discharge Planning
- 23-18.6.1 Revised Uniform Anatomical Gift Act
- 23-18.6.2 Rhode Island Public Education Advisory Council for Organ and Tissue Donation Registration
- 23-18.7 Bone Marrow Donation
- 23-19.3 Sanitarians
- 23-20.5 Choke-Saving
- 23-20.8 Licensing of Massage Therapists
- 23-20.8.1 Registration of Music Therapists
- 23-20.9 Smoking in Schools
- 23-20.10 Public Health and Workplace Safety Act
- 23-20.11 Reduced Cigarette Ignition Propensity and Firefighter Protection
- 23-20.12 Food Allergy Awareness in Food-Service Establishments
- 23-21 Licensing of Recreational Facilities
- 23-21.1 Sanitation Standards for Bathing Beaches
- 23-22 Licensing of Swimming Pools
- 23-22.5 Drowning Prevention and Lifesaving
- 23-24.6 Lead Poisoning Prevention Act
- 23-24.7 Occupational Health – Lead Protection
- 23-25.5 The Return or Exchange of Drugs Act
- 23-39 Respiratory Care Act
- 23-61 Radon Control
- 23-64 Minority Health Promotion Act
- 23-64.1 Commission for Health Advocacy and Equity
- 23-65 Board of Certification of Operators of Public Water Supply Facilities
- 23-66 Comprehensive Health Risk Assessments
- 23-67 The Rhode Island Research and Treatment Fund for Uninsured and Underinsured Women Stricken with Cancer

- 23-68 Tanning Facility Safety Standards Act
- 23-69 New England Compact on Involuntary Detention for Tuberculosis Control
- 23-70 Osteoporosis
- 23-71 Tobacco Product Manufacturers' Escrow Funds
- 23-72 Mercury In Fish Products
- 23-73 Latex Gloves Safety Act
- 23-74 Unlicensed Health Care Practices
- 23-76 Vaccine Shortage Protection Act
- 23-77 Healthcare Information Technology and Infrastructure Development Fund
- 23-78 The Stroke Task Force
- 23-78.1 Stroke Prevention and Treatment Act of 2009
- 23-80 Safe Patient Handling Act of 2006
- 23-81 Rhode Island Coordinated Health Planning Act of 2006
- 23-83 The Umbilical Cord Blood Donation Notification Act
- 23-86 Women's Cardiovascular Screening and Risk Reduction Pilot Program
- 23-87 The Rhode Island Lupus Education and Awareness Plan
- 23-89 The Rhode Island Palliative Care and Quality of Life Act
- 23-91 Service Member Licensure
- 23-92 Military Spouse Licensure
- 23-93 Rhode Island Access to Medical Technology Innovation Act