



transforming health through information and technology™

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March 20, 2018

David J. Shulkin, M.D.
Secretary
U.S. Department of Veterans Affairs
810 Vermont Avenue, NW
Washington DC 20420

Dear Secretary Shulkin:

On behalf of the Healthcare Information and Management Systems Society ([HIMSS](#)), we are pleased to provide written comments in response to the [Consent for Release of VA Medical Records](#) Proposed Rule that was published on January 19, 2018. HIMSS appreciates the opportunity to leverage our members' expertise in offering feedback on this proposed rule and we look forward to continuing to dialogue with the Department of Veterans Affairs (VA) on how to facilitate the broader exchange of health information within VA and across the community as well as how our members can contribute to modernizing the healthcare our nation's veterans receive.

HIMSS is a global voice, advisor, and thought leader of health transformation through health information and technology with a unique breadth and depth of expertise and capabilities to improve the quality, safety, and efficiency of health, healthcare, and care outcomes. HIMSS designs and leverages key data assets, predictive models and tools to advise global leaders, stakeholders, and influencers of best practices in health information and technology, so they have the right information at the point of decision.

HIMSS drives innovative, forward thinking around best uses of information and technology in support of better connected care, improved population health, and low cost of care. HIMSS is a not-for-profit, headquartered in Chicago, Illinois, with additional offices in North America, Europe, United Kingdom, and Asia.

HIMSS appreciates and supports the clarification that the Proposed Rule offers on changing the consent requirements around authorizing the VA to release a patient's confidential VA medical record to a Health Information Exchange (HIE) community partner. This proposed reinterpretation of existing regulations will help facilitate better sharing of patient's records with community health care providers, health plans, governmental agencies, and other entities participating in electronic HIEs. This change is critical—it will allow community health care providers and other HIE community partners to deliver better-informed medical care to our nation's veterans by accessing and using the information contained in their own VA medical record.

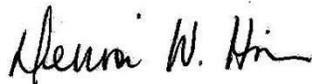
HIMSS is also supportive of the two new criteria put in place to support this proposed rule, specifically, that HIE community partners must provide written attestation that the patient has submitted legally sufficient consent to them, and that VA has the ability to retrieve or obtain this written consent within 10 business days of the HIE's attestation. These two criteria provide the patient privacy safeguards needed to facilitate broader exchange. HIMSS appreciates that the VA has provided flexibility on whether the written consent has to be in an electronic format. We strongly urge VA to encourage its community partners to make the exchange process primarily electronic to minimize any administrative burden on the Department or its partners.

In the context of VA's intent to update its health information and technology infrastructure and processes, HIMSS supports the use of an opt-out model for providing patients' medical information to its HIE community partners. The opt-out model is an approach that numerous HIEs have taken to-date, although with a certain degree of variation. Federal and state laws, as well as the input of stakeholders – providers, patients, public health, and others within the community – typically influence the selection of a consent model. The Department of Defense along with the Indian Health Service already use the opt-out model, and according to an [Office of the National Coordinator for Health Information Technology](#) (ONC) September 2016 report, twenty-four state HIEs had implemented an opt-out policy for data sharing. Some of these states have included 'opt-out exceptions' with certain caveats, such as exceptions for sharing sensitive patient health information (i.e. behavioral health, HIV testing, etc). Given the upward trajectory of more open data sharing models across the nation, HIMSS encourages VA to closely examine adopting an opt-out model for exchanging veterans' health care data with its community partners.

The [Indiana Health Information Exchange](#) (IHIE) and the [Nebraska Health Information Initiative](#) (NEHII) are two such HIEs that have successfully implemented an 'opt-out' model. These Health Information Organizations deliver value while enabling secure data sharing with constituents and stakeholders across their states and regions. HIMSS supports the VA's selection of a model that it believes will work best for our nation's veterans while allowing for optimal data sharing with HIE community partners. As VA considers revisions to this policy, HIMSS would like to be helpful and connect the Department with experts from across the stakeholder community to help consider a program design that functions for our veteran population as well as VA's care delivery model.

We welcome the opportunity to meet with you and your team to discuss our comments and resources in more depth. Please contact [Jeff Coughlin](#), Senior Director of Federal & State Affairs, at 703.562.8824, or [Eli Fleet](#), Director of Federal Affairs, at 703.562.8834, with questions or for more information. Thank you for your consideration.

Sincerely,



Denise W. Hines, DHA, PMP, FHIMSS
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HIMSS