



Department of Health

ANDREW M. CUOMO
Governor

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

SALLY DRESLIN, M.S., R.N.
Executive Deputy Commissioner

April 5, 2020

Re: Waiver of SHIN-NY Consent for VA and DoD MHS Facilities During COVID-19 Outbreak

Dear SHIN-NY QEs and QE VA and DoD MHS Participants:

The two basic information consent policy models are “opt-in” and “opt-out”. In an “opt-in” system no patient data is distributed unless specific consent is given by the patient to have their information shared. In an “opt-out” system, patient information is shared by default unless a request is submitted asking that information to be withheld. The Statewide Health Information Network for New York (SHIN-NY) uses an “opt-in” consent policy. Starting on April 18, 2020, the United States Department of Veterans Affairs (VA) and the United States Department of Defense (DoD) Military Health System (MHS) are moving to an “opt-out” system. Both these organizations are federal health care providers, with MHS serving active duty service members, military retirees, their eligible family members and the VA serving military veterans. To ensure timely care during the current COVID-19 pandemic, these systems’ consent models must be brought into alignment.

The New York State Department of Health (NYS DOH) is allowing a waiver of SHIN-NY affirmative written consent for patients receiving care from the VA or MHS to allow VA and MHS facilities to access information from the SHIN-NY using the consent process in use by such VA and MHS facilities. This waiver is effective immediately to support care for patients who receive care from a SHIN-NY participant and from the VA or MHS facilities that are QE Participants.

This waiver is consistent with the Governor’s State of Emergency declaration for COVID-19 and public health authority in situations of public health emergencies. This exception to SHIN-NY written consent shall be temporary and shall end upon declaration by the Governor that the State of Emergency has been lifted. Once this happens, patient consent must be obtained again consistent with existing SHIN-NY regulations.

Providers and QEs may continue to use electronic signatures for written consent which is allowable and guidance is provided by [State Technology Law Article 3](#) (Electronic Signatures and Records Act).

The complete SHIN-NY regulations can be found here: https://www.health.ny.gov/technology/regulations/shin-ny/docs/privacy_and_security_policies.pdf and questions concerning this or other policies can be sent to shin-ny@health.ny.gov.