



**Department  
of Health**

**Medicaid  
Redesign Team**

# **Value-Based Payment Patient Confidentiality: Issues and Considerations**

Technical and Data Sharing Issues

October 26, 2016

# Agenda

Today's agenda includes the following:

Agenda Item	Time
Welcome & Introductions	9:00
Workgroup Role & Charge	9:30
Introduction to Value Based Payment	10:00
Introduction to Technical & Data Sharing Issues Related to Patient Confidentiality	10:30
Conclusions	12:00

# Welcome & Introductions



# Workgroup Background

Brief Background & Context

# The Regulatory Impact Subcommittee

The Regulatory Impact Subcommittee recommended the development of additional stakeholder engagement efforts to continue the dialogue about particular topics. During the five meetings listed below, support and analysis of two workgroups will be focused on these topics, respectively: (1) **Program Integrity** and (2) **Patient Confidentiality (NYS)**.

Meeting Number	Topics Discussed	Topic of Additional Work Group, if Necessary?
1	1. Provider Risk Sharing	
	2. Default Risk Reserves	
	3. Insurance Law	
2	1. Medicaid Managed Care Model Contract Changed	
	2. Network Adequacy	
	3. DOH/DFS Contract Review and Approval Process	
3	1. Anti-Kickback (Fee-Splitting)	
	2. Self- Referral (Stark Law)	
	3. Prompt Payment Regulations	
4	1. Fraud, Waste & Abuse (Program Integrity)	Program Integrity
	2. Civil Monetary Penalty	
	3. HIPAA/ Patient Confidentiality (NYS)	Patient Confidentiality (NYS)
5	1. De-Regulation and Administration Reduction	
	2. Dispute Resolution	

 = A recommendation was drafted on this topic during the meeting  
 = No recommendation was drafted during the meeting, requiring an additional Group session to be scheduled

# Workgroup Role & Charge

How are workgroups relevant to Value Based Payments (VBP)?

- **VBP workgroups will play a crucial role** in defining VBP implementation details.
- The Patient Confidentiality workgroup is comprised of stakeholders who have direct interest in, or knowledge of, patient confidentiality, especially as it relates to VBP.
- Each workgroup is led by co-chairs who manage the workgroup's progress toward the development of a final Workgroup Recommendation Report.

# Patient Confidentiality Workgroup Issues

The following two policy questions will be considered through the Patient Confidentiality Workgroup:

- *Policy Question 1:* What does the technical data flow look like for the purposes of VBP? What are the gaps in patient data consent agreements within this technical data flow?
- *Policy Question 2:* What legal agreements (e.g. consent agreements), laws or regulations need to be created or modified to allow for effective data sharing for the purposes of VBP (e.g. Care Management, CBOs, Vital Statistics)?

# VBP Patient Confidentiality Workgroup Agenda

<u>Meeting 1 Focus</u>	<u>Meeting 1 Agenda</u>
Technical & Data Sharing Issues	<ul style="list-style-type: none"> <li>• VBP Background</li> <li>• Policy Question 1</li> <li>• Discussion</li> <li>• Draft Consensus Recommendation(s)</li> </ul>
<u>Meeting 2 Focus</u>	<u>Meeting 2 Agenda</u>
Consent Agreements, Legal & Regulatory Issues	<ul style="list-style-type: none"> <li>• Policy Question 2</li> <li>• Discussion</li> <li>• Draft Consensus Recommendation(s)</li> <li>• Finalize Recommendation Report to Regulatory Impact Subcommittee</li> </ul>
* Meeting 3 to be held if necessary	



Topics and policy questions were the output of the Regulatory Impact Subcommittee which initially convened in July-December 2015

Policy questions frame and provide context and subsequent workgroup discussion

Provide the State with a consensus recommendation on each of the workgroup's policy questions



# VBP Refresher

Brief Background and Context

# Delivery Reform is Sustainable Through Value Based Payments

## *Reimbursement Methodology Drives System and Provider Behavior*

- *FFS Pays for Inputs*  
Fee-for-service (FFS) pays for inputs rather than outcome
- *Incentivize Desired Outcomes*  
FFS does not incentivize high-quality healthcare → prevention, coordination, integration and quality

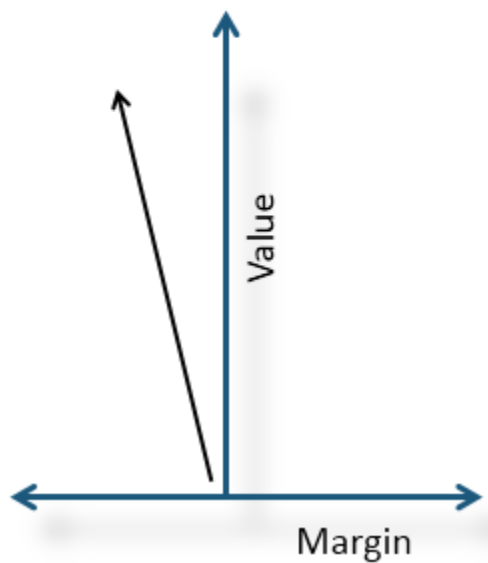
Financial and regulatory incentives drive...

a delivery system which realizes...

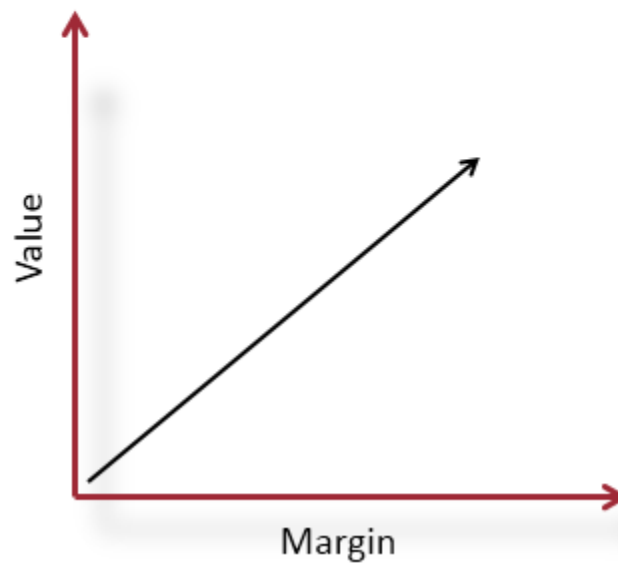
cost efficiency and quality outcomes: value

# VBP Ties Provider Margins to Value

**Current State**  
*Increasing the value of care delivered  
 more often than not threatens  
 providers' margins*



**Future State**  
*When VBP is done well, providers'  
 margins go up when the value of  
 care delivered increases*



# 2019: 80-90% MCO Payments will be VBP



\* The New York State Roadmap for Medicaid Payment Reform (the “Roadmap”) is available online at the following link:  
[https://www.health.ny.gov/health\\_care/medicaid/redesign/dsrp/docs/vbp\\_roadmap\\_final.pdf](https://www.health.ny.gov/health_care/medicaid/redesign/dsrp/docs/vbp_roadmap_final.pdf)

# MCOs and Contractors can Choose Different Levels of Value Based Payments

In addition to choosing which integrated services to focus on, the MCOs and contractors can choose different levels of Value Based Payments:

Level 0 VBP*	Level 1 VBP	Level 2 VBP	Level 3 VBP (feasible after experience with Level 2; requires mature contractors)
FFS with bonus and/or withhold based on quality scores	FFS with upside-only shared savings available when outcome scores are sufficient (For PCMH/IPC, FFS may be complemented with PMPM subsidy)	FFS with risk sharing (upside available when outcome scores are sufficient)	Prospective capitation PMPM or Bundle (with outcome-based component)
FFS Payments	FFS Payments	FFS Payments	Prospective total budget payments
No Risk Sharing	↑ Upside Risk Only	↑↓ Upside & Downside Risk	↑↓ Upside & Downside Risk

\*Level 0 is not considered to be a sufficient move away from traditional fee-for-service incentives to be counted as value based payment in the terms of the NYS VBP Roadmap.

# The Menu of Options in Practice

**There is not a single path towards Value Based Payments. Rather, there are a variety of options that MCOs and providers can jointly choose from.**

- Total Care for General Population (TCGP)
- Total Care for Special Needs Population (TCSNP)
- Per integrated service for specific condition: Maternity Care bundle
- For Integrated Primary Care (IPC): includes Chronic Care bundle

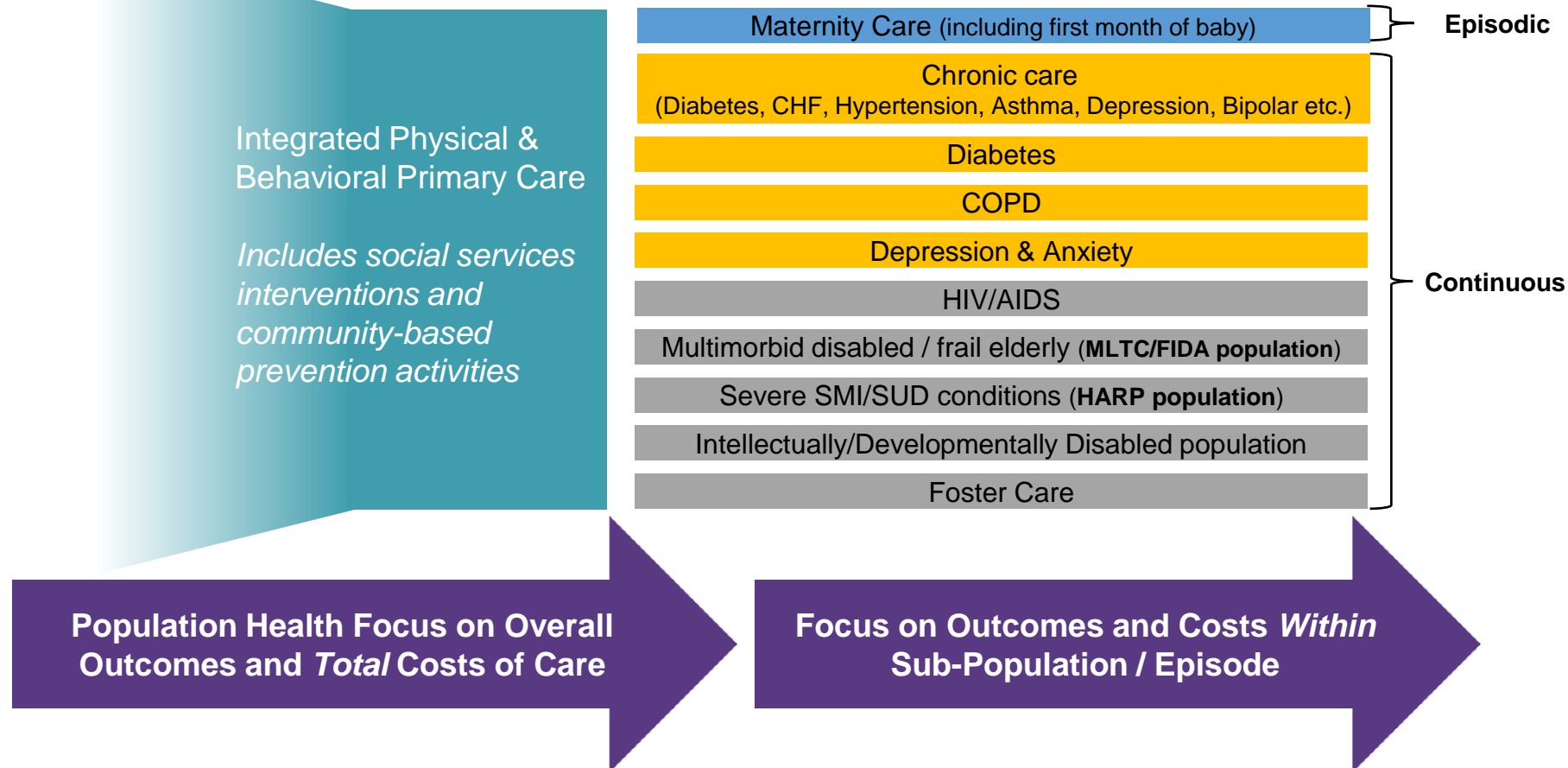
*These VBP arrangements are limited to Medicaid-only members.  
Duals will be integrated in the VBP arrangements from 2017 on.*



## What is a VBP Entity?

- A contracting entity,
- Which is responsible for the delivery of TCGP, TCSNP, or Bundled Services,
- or which sub-contracts with such an entity for the delivery of a component of such services.

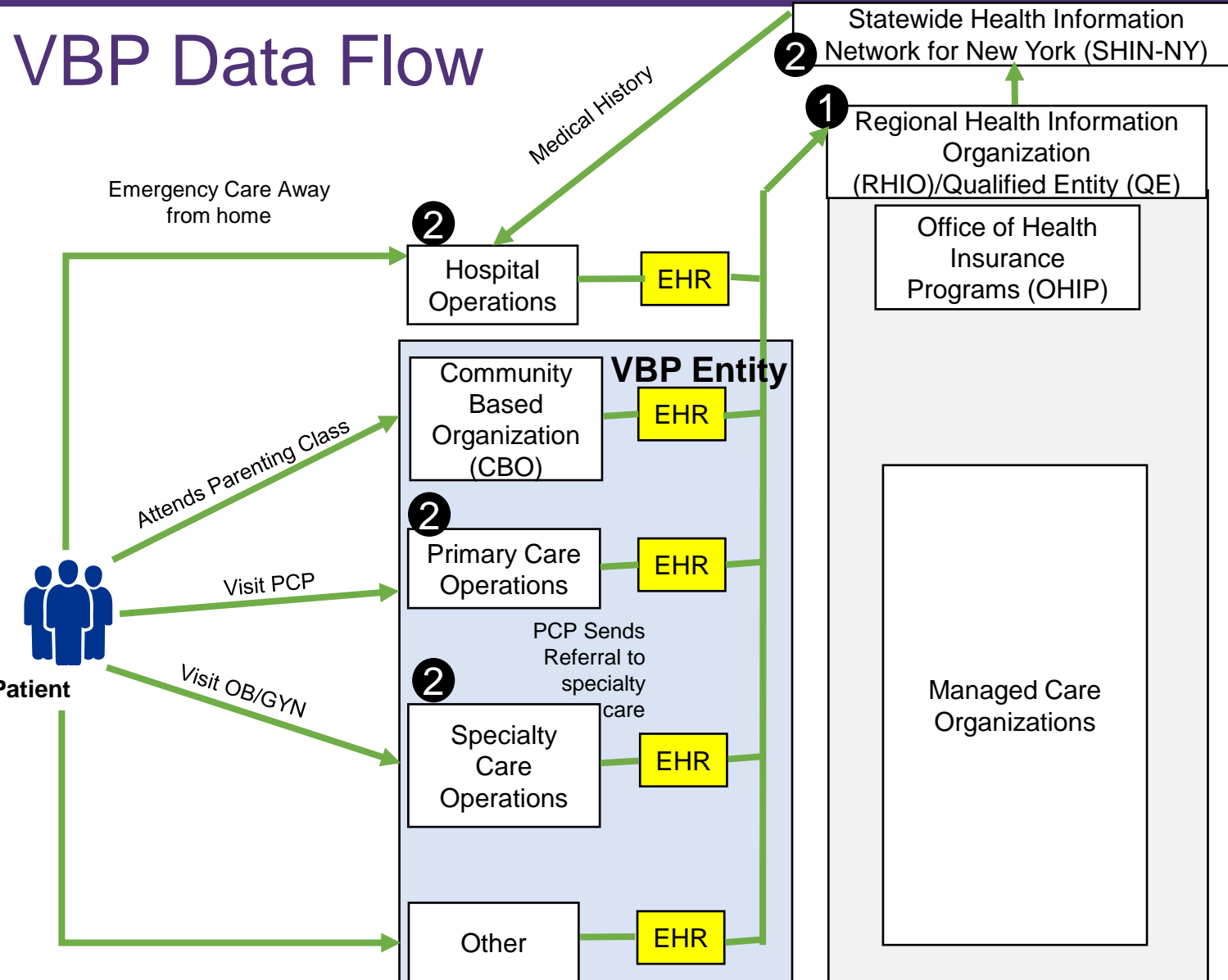
# The VBP Roadmap Contemplates an Integrated Delivery System; Integration Requires Effective Data Exchange



# VBP Patient Confidentiality Core Concepts



# VBP Data Flow



## Electronic Health Record (EHR)

- A systematic collection of patient and population electronically-stored health information in digital format (RHIO)
- Records are shared through network-connected enterprise-wide information systems

*\*Note 1: Contractual, structural and business relationships between these entities are not reflected through the depiction and could take varying forms depending upon type and level of integration (E.g. Care Management functions within or outside of VBP entity).*

*\*\*Note 2: Special circumstances (minors, HIV/AIDs, other) may require special entities or data flows not depicted in this general overview.*

*\*\*\*Note 3: This depiction does not take into account data flows from provider to MCO (claims) and from MCO to State (encounters).*

**Key:** Direct data interaction between 2 entities

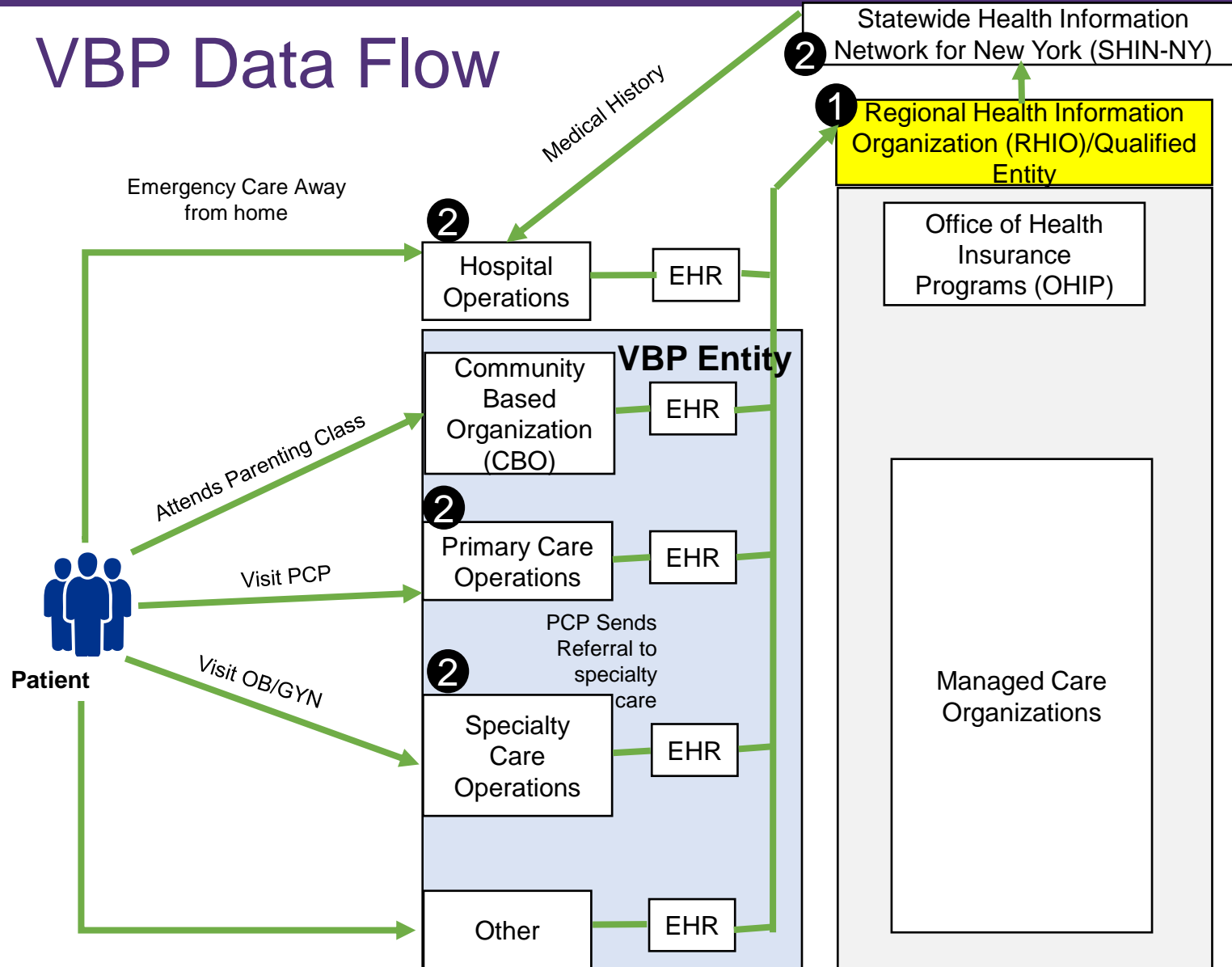
VBP entity with Care Management Organization (CMO) Function

① Medicaid Consent Form

② RHIO/SHINY Opt In

Consent Agreement implications explained (see slide 19)

# VBP Data Flow



## Regional Health Information Organization (RHIO)/Qualified Entities (QE)

- Enables interoperable health information exchange via a common network (EHR)
- All RHIOs are Qualified Entities (QEs) which aid in communication between EHR systems and providers

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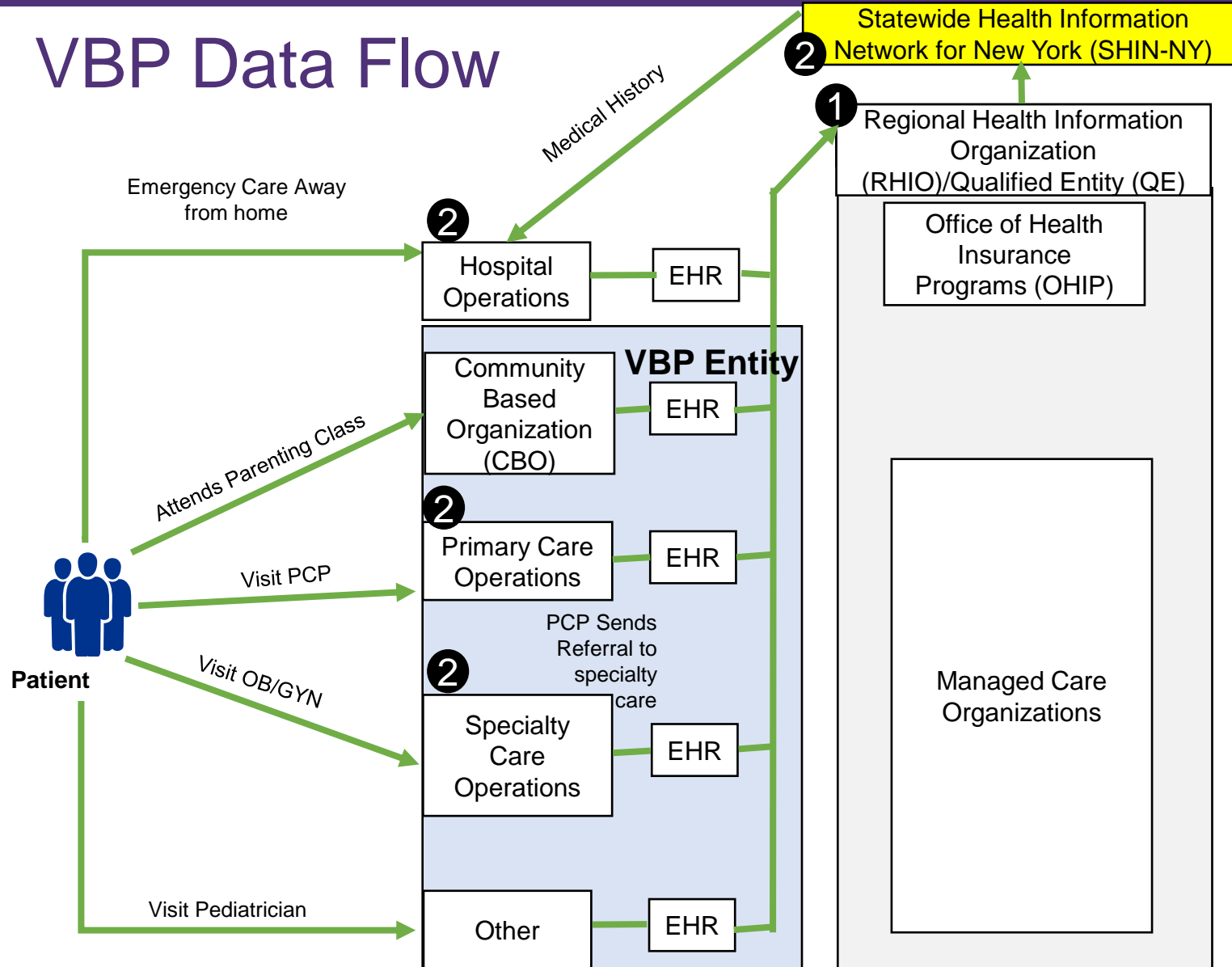
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Consent Agreement implications explained (see slide 19)

# VBP Data Flow



## Statewide Health Information Network for New York (SHIN-NY)

- Main storage of patient electronic information within New York State
- Interconnects the eight RHIOs with the help of Medicaid Analytics Performance Portal (MAPP) which integrate SHIN-NY and RHIO/QE Clinical Data

*\*Note 1: Contractual, structural and business relationships between these entities are not reflected through the depiction and could take varying forms depending upon type and level of integration (E.g. Care Management functions within or outside of VBP entity).*

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VBP entity with Care Management Organization (CMO) Function

1 Medicaid Consent Form

2 RHIO/SHINY Opt In

Consent Agreement implications explained (see slide 19)

# Current State Consent Agreements

1

## Medicaid Consent Form

- Lack of guidance regarding when opt-in/outs are necessary in light of the exception for health care operations contained in the Medicaid consent form.
- Relevant upstream entities fear they need unique opt-in/out or alternative consent processes to receive data from downstream providers.

2

## RHIO / SHIN-NY Opt In

- RHIO and SHIN-NY data may be incomplete due to NYS patient confidentiality laws (e.g., Public Health Law §2782) which limit provider-to-provider data access.
- If data access is for non-treatment purposes, it is not clear what would constitute a “minimally necessary” standard for “health care operations”.
- The RHIO / SHIN-NY opt-in does not necessarily include the consent of minor patients.
- Providers are therefore reluctant to provide access to minor patients’ data through the RHIOs and SHIN- NY.

3

## Other

- HIV/AIDS Consent: must conform to NYS Public Health Law 27F (Rehab Act, Minors, Health Homes)
- Mental Health & additional services consent: must conform with Federal Rehabilitation Act of 1973
- Minors: explanation of benefits opens opportunity for consent (opt-in or opt-out) agreements.
- Health Homes: established consent system that allows a patient to identify participating partners with whom he/she is willing to share information.

# VBP Patient Confidentiality Policy Questions and Options

# Technical Data: Policy Questions

- What does the technical data flow look like for the purposes of VBP?
- What are the gaps in patient data consent agreements within this technical data flow?
- Are there other considerations related to this data flow?

# Areas for Consideration

What does the technical data flow look like for the purposes of VBP? What are the gaps in patient data consent agreements within this technical data flow?

1. Define current state technical data flow and identify necessary changes that would allow for the full implementation of VBP.

a. Consider the components of an ideal data flow within a future-state VBP framework.

b. How would a new VBP contracting entity interact with other entities in the data flow model?

c. *Special circumstances:* Certain populations (e.g., HIV/AIDS, minors, other), organizations (e.g. Health Homes, Community Based Organizations, Social Service Organizations, Other) and/or data sets (e.g. vital statistics) may require particular consent agreements or considerations. What are these populations organizations and data sets?

2. Identify gap(s) in the existing consent forms that would prevent VBP data exchange.

a. How do we ensure that entities that must receive data (e.g. Community Benefit Organizations, Care Management Organizations) have access to the information necessary for VBP?

b. How do we ensure that entities permitted to receive data are able to interexchange data and receive all relevant data for the purposes of VBP?

## Contact Us:

Charles King

Co-Chair

King@housingworks.org

Kathy Shure

Co-Chair

kshure@GNYHA.org

Carlos Cuevas

DOH Sponsor

carlos.cuevas@health.ny.gov



# Appendix