



## **Comments of ACLU-Vermont on S. 155, Medical Records Privacy, Lia Ernst, Staff Attorney/Public Advocate, April 22, 2016**

The ACLU-VT wanted to take a moment to respond to the comments of the Vermont Medical Society regarding notification and reporting of medical records breaches.

The Vermont Security Breach Notice Act applies to breaches of an individual's first name/initial and last name plus any of the following: (1) Social Security number; (2) motor vehicle operator's license or nondriver identification card number; (3) financial, debit, or credit card numbers if they can be used without additional information; and (4) financial account passwords or other access codes. 9 V.S.A. § 2430. Conspicuously absent from this list? Protected health information. The Act is aimed at information that could facilitate financial crime and identity theft; its notification and reporting requirements are inapplicable to breaches of protected health information.

HIPAA's notification and reporting requirements do, of course, apply to such breaches. However, only breaches affecting 500 or more individuals are posted on the U.S. Department of Health and Human Services website, <http://www.hhs.gov/hipaa/for-professionals/breach-notification/breach-reporting/index.html> (note the link to view a list of breaches in the section addressing breaches affecting 500 or more individuals and the lack of such a link in the section addressing breaches affecting fewer than 500 individuals).

Therefore, there appears to be no publicly available website where consumers can learn of incidents of breaches of the protected health information of up to 499 individuals. Our proposed language would address that glaring gap.