



BACKGROUND

The COVID-19 crisis has upended California's economy, shuttered businesses and schools, and drastically affected Californian's daily lives. One of the biggest contributing factors to the disruption caused by COVID-19 is the uncertainty around who may be infected by the virus, stemming from the inability to authentically verify COVID-19 test results in a safe, efficient and secure way.

Despite California and the nation as a whole moving through various phases of closing and reopening, public health officials and Governor Newsom have cautioned that even once the virus is contained, our state faces a "new normal" way of daily life until a vaccine is developedⁱ, which may still be many months away.

In a July 6th press conference, Dr. Anthony Fauci, Director of the National Institute of Allergy and Infectious Diseases, stated that "We hope that by the end of this year, or the beginning of 2021 we will at least have an answer whether the vaccine or vaccines - plural - are safe and effectiveⁱⁱ."

Given this reality, California must adopt new tools and technologies that encourage responsible and informed actions to support the effort to contain COVID-19. Testing and contact tracing programs are the foundation of the response to COVID-19 and their importance cannot be understated. While these steps are crucial, California can still do more to engage with the results of a COVID-19 test in a way that preserves our state's values on privacy and individual ownership of personal data.

California led the nation by being the first to pass a stringent data privacy model where consumers control their own data - the California Consumer Privacy Act. Our state can continue to be a leader in innovation and privacy during this crisis by authorizing and guiding the implementation of verifiable health credentials for communicating healthcare records.

Verifiable health credentials use blockchain technology to verify the results of a COVID-19 test while protecting people's data and privacy. This ensures that an individual retains ownership and decision-making power over their health data, while the relying party (whoever is verifying the individual's credential) can ensure that the healthcare record is from a trusted source - in other words, a licensed healthcare worker. These credentials can be used at the discretion of the individual that owns them: they are never required to share their credential, but may choose to do so in any situation that would benefit from a provable health record - such as travel, returning to employment, immunization status, and so on.

PROBLEM

While testing and tracing is a key component of the COVID-19 response, testing alone does not deliver trust. Currently, the medical system provides proof of healthcare records through a variety of fragmented systems. None of the existing systems offer an easy way for an individual to:

1. Prove to a relying party that the source of their healthcare record is from a trusted, licensed healthcare worker.
2. Provide a tamper-evident credential - ensuring that even if a test result from a trusted issuer was altered, it would be evident to the relying party (and therefore invalid).
3. Retain true ownership of their healthcare data, rather than reliance on a third-party's server.

Public-private partnerships for COVID-19 testing and tracing face significant pushback over privacy concerns. A recent poll by Washington Post-University of Maryland found that nearly 3 in 5 Americans are either unable or unwilling to use

the infection-alert system under development by large technology companiesⁱⁱⁱ, suggesting that it will be difficult to persuade enough people to use these systems to make it effective against the spread of COVID-19 - unless real privacy guards are put in place.

SOLUTION

AB 2004 offers a solution to this problem by authorizing the use and guiding the implementation of verifiable health credentials (VHCs) for communicating healthcare records. This bill would authorize licensed healthcare workers to provide COVID-19 test results in VHC form when requested by the patient, and would direct the California Medical Board to develop a pilot program to develop best practices for VHCs that focus on consumer privacy and protection.

AB 2004 provides Californians an opt-in alternative for receiving their COVID-19 test results, creating an avenue for engaging with the testing and tracing process that doesn't infringe on their privacy. It provides an additional tool at our state's disposal for sharing healthcare data and places safeguards on its implementation to ensure VHCs are used in a reliable and safe way.

EXISTING LAW

All laws regarding the confidentiality of healthcare information and a patient's rights to the patient's medical information would apply to verifiable health credentials, including CMIA, HIPPA, and CCPA.

SUPPORT

Blockchain Advocacy Coalition (Sponsor)

FOR MORE INFORMATION

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<https://calmatters.org/newsletters/whatmatters/2020/04/california-coronavirus-newsom-new-normal-summer/>

ⁱⁱ <https://www.nbcnews.com/health/health-news/fauci-covid-19-vaccine-we-will-least-have-answer-winter-n1233024>

ⁱⁱⁱ <https://www.washingtonpost.com/technology/2020/04/29/most-americans-are-not-willing-or-able-use-an-app-tracking-coronavirus-infections-thats-problem-big-techs-plan-slow-pandemic/>