

<b>POLICIES AND PROCEDURES</b>			
<b>TOPIC:</b>	Complaint	Handling	and
	Resolution		
<b>DOCUMENT NUMBER:</b>	1501		
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**I. BACKGROUND AND PURPOSE**

The purpose of this policy is to establish a process by which complaints about the WVHIN or its Health Information Exchange may be filed by a Participating Organization, a Business Associate, a Patient, an Authorized User, or other individual with specific knowledge regarding the operation of the Health Information Exchange and its ancillary services (collectively referred to herein as Complainant). To the extent an individual Complainant is unable to file a complaint, the Complainant may designate another person to file such a complaint on his or her behalf. This policy will also establish requirements for reviewing and resolving such complaints in a timely manner by the WVHIN.

**II. POLICY**

Any organization that will touch the lives of so many residents of West Virginia must undertake reasonable efforts to remain accountable. The accountability of a Health Information Exchange has long been a fundamental building block of the information exchange movement nationally. For example, the Office of the National Coordinator’s *Nationwide Privacy and Security Framework for Electronic Exchange of Individually Identifiable Health Information* has long included accountability as one of its eight (8) core domains. Absent true accountability, a Health Information Exchange will be ineffective in building public trust in its activities.

One important method of accountability identified by the Office of the National Coordinator is to maintain a vigorous complaint handling capability. That capability must include not only an efficient means by which complaints may be registered, but also a procedure for resolving complaints and taking corrective measures. This Policy and Procedure seeks to achieve all of these aims.

First, with respect to the filing of complaints, it specifies that any Complainant who desires to file a complaint with the WVHIN about actual WVHIN operations or ancillary services may do so in writing, utilizing a form developed and approved by the WVHIN. All complaints will be directed to the WVHIN’s Privacy Officer for handling.

Second, upon receipt, the Privacy Officer will first acknowledge the complaint to the Complainant. The Privacy Officer will then initiate a review, and if necessary, an investigation of the facts and circumstances surrounding the complaint. Based upon this review and

investigation, the Privacy Officer will determine if the complaint can be verified or not. If a complaint cannot be verified as true or as having actually happened, then no further action by either the Privacy Officer or the WVHIN is required other than to notify the Complainant that the complaint could not be verified.

However, if a complaint is verified, then the WVHIN must determine what actions are required to resolve the complaint. Such actions could include system changes, procedural changes, revised security efforts, harm mitigation, sanctions of the WVHIN staff or its Business Associates, or any other measure deemed necessary by the WVHIN to provide a fair, equitable, and effective resolution of the complaint.

Third, the Complainant must be notified of the resolution agreed upon by the WVHIN in writing, if any. The WVHIN must then proceed with the identified corrective measures. Any Complainant not satisfied by the WVHIN's proposed resolution of the complaint may have it forwarded to the Executive Director of the West Virginia Health Care Authority for further review and consideration in accordance with the policies and procedures of that agency.

A Complainant may elect to file a complaint with the United States Department of Health and Human Services, Office of Civil Rights, if his/her/its rights under the law have been violated. The WVHIN will not retaliate against a Complainant for filing a complaint.

The WVHIN Privacy Officer is required to periodically analyze all filed complaints to determine if persistent or recurrent problems exist with the Health Information Exchange or its operation.

### **III. PROCEDURES**

#### **A. Complainant Procedures.**

1. Any Complainant may file a complaint about the WVHIN, its Health Information Exchange, or its ancillary services. Such complaint must be in writing on a Complaint Form developed and approved by the WVHIN.

2. Verbal complaints will not be accepted by the WVHIN.

3. All written complaints must be directed to the WVHIN's Privacy Officer. Complaints may be filed in person, by mail, or via the WVHIN's website.

4. A Complainant may request that the WVHIN maintain the confidentiality of the identity of the Complainant. The WVHIN will respect this request for confidentiality unless, by doing so, it would place the Complainant or any other person at significant risk or physical, mental, or financial harm, or unless disclosure is otherwise required by law.

5. If a Complainant is not satisfied by the WVHIN's proposed resolution of the complaint, he or she may have it forwarded to the Executive Director of the West Virginia

Health Care Authority for further review and consideration in accordance with the policies and procedures of that agency.

6. A Complainant may file a complaint with the U.S. Department of Health and Human Services, Office for Civil Rights (“HHS/OCR”), if he/she/it feels that the WVHIN violated his/her/its rights under the law. Such a complaint may be filed by electronic submission utilizing the OCR web portal at: [https://ocrportal.hhs.gov/ocr/cp/complaint\\_frontpage.jsf](https://ocrportal.hhs.gov/ocr/cp/complaint_frontpage.jsf).

7. Alternatively, a Complainant may file a complaint with HHS/OCR by mail or fax by sending it to:

Regional Manager  
Office for Civil Rights  
U.S. Department of Health and Human Services  
150 S. Independence Mall West  
Suite 372, Public Ledger Building  
Philadelphia, PA 19106-9111  
Main Line (800) 368-1019  
FAX (215) 861-4431  
TDD (800) 537-7697

or to such other office as designated by the U.S. Department of Health and Human Services.

8. Upon a Participating Organization’s receipt of a complaint about the WVHIN, its health Information Exchange, or its ancillary services from a Complainant, the Participating Organization shall immediately forward the complaint to the WVHIN Privacy Officer.

9. Participating Organizations and Authorized Users shall not retaliate, discriminate against, intimidate, coerce, or threaten any person who files a complaint.

C. WVHIN Procedures.

1. The WVHIN will accept and process complaints from Complainants.

2. The WVHIN shall develop and approve a Complaint Form upon which Complainants may file a complaint about the WVHIN, its Health Information Exchange, or its ancillary services. The Complaint Form will include, at a minimum, the following items:

- (i) the name, address, and phone number of the person making the complaint;
- (ii) the date of the complaint;
- (iii) the date an alleged adverse event occurred; and
- (iv) a detailed description of the adverse event.

3. The WVHIN's Privacy Officer will be the person designated to oversee and perform its complaint handling process.

4. The WVHIN will provide full information on its website about the right of Complainants to file a complaint, including a copy of the approved Complaint Form. This complaint procedure will be prominently featured on its website, along with the name and address of the Privacy Officer to whom all complaints must be directed.

5. Upon receipt of a written complaint as submitted to the WVHIN on the Complaint Form, the date of its receipt must be documented on the form and immediately forwarded to the WVHIN Privacy Officer.

6. The WVHIN Privacy Officer shall respond to the Complainant acknowledging receipt of the complaint.

7. The Privacy Officer shall review all complaints received by the WVHIN, and determine who within WVHIN's staff and governance structure should assist in the review and investigation. When appropriate, the Privacy Officer may also involve a Business Associate, a Participating Organization, an Authorized User, or others with knowledge or expertise needed to review and investigate a complaint.

8. Any complaints involving a potential Breach of Protected Health Information shall trigger implementation of the WVHIN's "Policy and Procedure on Breach Notification."

9. Upon request, the WVHIN will respect any request for confidentiality made on behalf of the Complainant unless, by doing so, it would place the Complainant or any other person at significant risk of physical, mental, or financial harm, or unless disclosure is otherwise required by law.

10. Based upon its review and investigation, the Privacy Officer will determine if the complaint can be verified or not. If a complaint cannot be verified as true or as having actually happened, then no further action by either the Privacy Officer or the WVHIN is required other than to notify the Complainant that the complaint could not be verified.

11. If a complaint is verified, then the WVHIN must determine what actions are required to resolve the complaint, if any. Such actions could include system changes, procedural changes, revised security efforts, harm mitigation, sanctions of the WVHIN staff or Business Associates, or any other measure deemed necessary by the WVHIN to provide a fair, equitable, and effective resolution of the complaint.

12. Absent extenuating circumstances, the WVHIN shall make reasonable efforts to resolve complaints, provide feedback to the Complainant, and implement corrective measures as soon as reasonably practicable, which in the vast majority of cases shall be within thirty (30) days of receiving the complaint. Under extenuating circumstances, the Privacy Officer may extend this deadline as necessary, so long as a letter or other agreed upon means of

communication explaining a reason for the delay is sent to the Complainant prior to the thirty (30) day deadline.

13. All complaints shall be resolved by the WVHIN within six (6) months from receipt of the complaint.

14. The Privacy Officer shall notify the Complainant of the WVHIN's resolution or other response to the complaint in writing via a registered mail service.

15. This resolution or response shall include information about how the Complainant may forward the complaint to the Executive Director of the West Virginia Health Care Authority if the complaint has not been resolved to the satisfaction of the Complainant.

16. The WVHIN shall maintain copies of all written Complaint Forms for at least six (6) years from the resolution of the complaint.

17. The WVHIN shall review all filed complaints to determine if persistent or recurrent problems exist within the Health Information Exchange or its operations on quarterly basis. Any resulting changes in policy or procedure must be brought before the WVHIN Board of Directors for approval prior to implementation.

18. If the WVHIN receives any complaints from a Complainant about any Participating Organization, it will forward the complaints to the named Participating Organization(s).

19. The WVHIN's website will provide contact information about how a Complainant may file a complaint with the U.S. Department of Health and Human Services, Office for Civil Rights ("HHS/OCR"), if he/she/it feels that the WVHIN has violated his/her/its rights under the law.

20. The WVHIN shall not retaliate, discriminate against, intimidate, coerce, or threaten any person who files a complaint.