

<b>POLICIES AND PROCEDURES</b>
<b>TOPIC:</b> Permissible Purpose - Limited Health Care Operations
<b>DOCUMENT NUMBER:</b> 1101
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**I. BACKGROUND AND PURPOSE**

The purpose of this policy is to establish how the WVHIN’s Health Information Exchange may be used as a source of Protected Health Information for a legitimate Limited Health Care Operations purpose. In addition, the policy also sets forth the requirements that must be met in order for a Participating Organization to access Protected Health Information maintained in the Health Information Exchange for Limited Health Care Operations purposes in compliance with the HIPAA Privacy Rules and other applicable laws.

**II. POLICY**

One of the fundamental principles identified by the Office of the National Coordinator for Health Information Technology is the need for appropriate limits on the collection, use, and disclosure of Protected Health Information by a Health Information Exchange organization such as the WVHIN. The WVHIN must establish limitations on Participating Organizations to ensure that Protected Health Information will only be disclosed for a Permissible Purpose.

Under the Health Insurance Portability and Accountability Act (HIPAA), there are certain defined Permissible Purposes that allow the use and disclosure of PHI without obtaining patient authorization, including a broad category of health care operations. Health Care Operations are activities related to the Covered Entity’s functions, including health care improvement, quality enhancement, and the reduction of fraud and abuse. The WVHIN’s governing statute recognizes a number of public purposes to be served by its Health Information Exchange, all of which are to benefit the citizens of West Virginia. Uses and disclosures of Protected Health Information designed for health care improvement, quality enhancement, and the reduction of health care fraud and abuse are therefore consistent with these purposes. It is the intent of this policy and procedure to identify and define the Permissible Purpose of Limited Health Care Operations.

Limited Health Care Operations allows the exchange of Protected Health Information between Participating Organizations if: (a) the Participating Organization submitting the Inquiry has or had a Treatment or Payment relationship with the Patient whose Protected Health Information is being requested, (b) the Protected Health Information pertains to such relationship, and (c) the purpose of the Inquiry is listed in paragraph (1) or (2) of the definition of Health Care Operations in 45 C.F.R. §164.501 or is for the purpose of health care fraud and abuse detection or compliance.

It is important to reiterate that HIPAA does not authorize the disclosure of Protected Health Information for all types of Health Care Operations included within the definition of that term set forth in 45 C.F.R. §164.501. Rather, disclosure without Patient Authorization may occur only for those health care improvement and quality enhancement purposes in paragraph (1) and (2) of the definition, or for the purpose of health care fraud and abuse detection or compliance.

For the purposes of the Health Information Exchange, “Limited Health Care Operations” specifically includes quality assessment and improvement activities (including utilization review), outcomes evaluation, development of clinical guidelines, population-based activities relating to improving health and reducing health care costs, protocol development, case management and care coordination, and contacting health care providers and patients with information about Treatment alternatives. The exchange of Protected Health Information in response to an Inquiry for Limited Health Care Operations must contain only the Minimum Necessary amount of Protected Health Information as is required or authorized for the specific requested Limited Health Care Operations purpose (see Policy and Procedure Document Number 1400). A disclosure for the Permissible Purpose of Limited Health Care Operations may occur through the Health Information Exchange only if the Patient has not elected to Opt-Out.

### **III. PROCEDURES**

#### **A. Patient Procedures.**

1. A Patient who has not Opted-Out will be deemed to have given his or her Consent to participate in the Health Information Exchange, and his or her Protected Health Information may be exchanged for the Permissible Purpose of Limited Health Care Operations.

2. The Protected Health Information of a Patient who has Opted-Out of the Health Information Exchange will not be exchanged for any Permissible Purpose (including Limited Health Care Operations) except Public Health Reporting.

3. A Patient may request a Participating Organization to restrict the disclosure of Protected Health Information for a Limited Health Care Operations purpose. If granted, such information will constitute Patient-Restricted Information.

#### **B. Participating Organization Procedures.**

1. Each Inquiry seeking a Patient’s Protected Health Information through the Health Information Exchange must be limited to a Permissible Purpose. All Inquiries must be submitted electronically.

2. When submitting an Inquiry under Paragraph 1 above for Limited Health Care Operations, a Participating Organization must certify electronically to the WVHIN that it had or has an existing Treatment or Payment relationship to the Patient sufficient to justify the Permissible Purpose of Limited Health Care Operations, and that the Protected Health Information sought pertains to such relationship.

3. Any Protected Health Information obtained by a Participating Organization through the Health Information Exchange as a result of an Inquiry must be used only for the Permissible Purpose for which it was sought. An Inquiry for the Permissible Purpose of Limited Health Care Operations must be limited to the Protected Health Information of the Patient who is the subject of the Inquiry (except in the case of mother/infant).

4. All Participating Organizations are specifically prohibited from seeking access to Protected Health Information through the Health Information Exchange for non-authorized Health Care Operations as set forth in paragraphs (3), (4), (5), and (6) in the definition at 45 C.F.R. §164.501. Such non-authorized Health Care Operations include, but are not limited to, underwriting purposes, premium ratings, legal services, business planning, business management, general administrative services, grievance resolution, due diligence, and fundraising.

5. All Participating Organizations are specifically prohibited from seeking access to Protected Health Information through the Health Information Exchange for the purpose of a Health Plan sponsor's employment-related actions or decisions, or in connection with any other benefit or employee benefit plan of a Health Plan sponsor.

6. Participating Organizations seeking the exchange of Sensitive Health Information for Limited Health Care Operations must comply with the Sensitive Health Information policies and procedures (see Policy and Procedure Document Number 102), and where necessary, must obtain the specific written authorization of the Patient.

7. When seeking the exchange of Protected Health Information for Limited Health Care Operations, a Participating Organization must comply with the Minimum Necessary Policies and Procedures (see Policy and Procedure Document Number 1400) to limit its Inquiry to the Minimum Necessary which is reasonably necessary to accomplish the intended Limited Health Care Operations purpose.

8. A Participating Organization may grant a request from a Patient for a restriction on the disclosure of Protected Health Information for any Permissible Purpose, including Limited Health Care Operations. Such a request, if granted by the Participating Organization, will constitute Patient-Restricted Information.

9. Participating Organizations will cooperate with the WVHIN to electronically tag all Patient-Restricted Information (if it has agreed to a Limited Health Care Operations restriction) to block it from being disclosed through the Health Information Exchange for Limited Health Care Operations purposes in compliance with the Patient Restrictions on Disclosures policies and procedures (see Policy and Procedure Document Number 1000) and the Sensitive Health Information policies and procedures (see Policy and Procedure Document Number 102).

C. WVHIN Procedures.

1. Each Inquiry seeking a Patient's Protected Health Information through the Health Information Exchange must be limited to a Permissible Purpose. All Inquiries must be submitted electronically.

2. If a Patient has not Opted-Out, the WVHIN's Health Information Exchange will share Protected Health Information in response to an Inquiry from a Participating Organization for Limited Health Care Operations if the Participating Organization certifies electronically to the WVHIN that it had or has an existing Treatment or Payment relationship to the Patient sufficient to justify the Permissible Purpose of Limited Health Care Operations, and that the Protected Health Information sought pertains to such relationship.

3. The WVHIN will require that all Inquiries seeking the exchange of Sensitive Health Information are in compliance with the Sensitive Health Information policies and procedures (see Policy and Procedure Document Number 102).

4. For a Patient who has Opted-Out of the Health Information Exchange, the WVHIN will ensure that no Protected Health Information will be shared for any Permissible Purposes other than Public Health Reporting. Instead, the Participating Organization that submitted the Inquiry for any purpose other than Public Health Reporting will receive a message that the Patient has Opted-Out of the WVHIN's Health Information Exchange.

5. The WVHIN will develop protocols designed to disclose only the Minimum Necessary amount of Protected Health Information needed for Limited Health Care Operations purposes. These protocols will seek to facilitate the compliance of a Participating Organization with the Minimum Necessary requirement when submitting an Inquiry through the Health Information Exchange.

6. Under no circumstances may Protected Health Information be used, disclosed, or sold by the WVHIN for marketing or other commercial purposes; for non-authorized Health Care Operations including, but are not limited to, underwriting purposes, premium ratings, legal services, business planning, business management, general administrative services, grievance resolution, due diligence, or fundraising; for any Health Plan sponsor's employment-related actions or decisions; or in connection with any other benefit or employee benefit plan of a Health Plan sponsor.

7. The WVHIN will not disclose any Protected Health Information tagged as Patient-Restricted Information for Limited Health Care Operations purposes (if the Participating Organization has agreed to a Limited Health Care Operations restriction) in accordance with the Patient Restrictions on Disclosures policies and procedures (see Policy and Procedure Document Number 1000) and the Sensitive Health Information policies and procedures (see Policy and Procedure Document Number 102).