



Healthfirst Health Information Exchange Policies and Procedures

June 2022



**HEALTHFIRST HEALTH INFORMATION EXCHANGE
POLICIES AND PROCEDURES**

UPDATED AS OF JUNE 1, 2022

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INTRODUCTION

These policies and procedures govern the exchange of information through the health information exchange application (“HIE”) operated by Healthfirst, which allows the exchange of Member Data between and among Healthfirst and certain qualified participating providers. Providers that participate in the HIE may access information about Healthfirst members to coordinate services, improve quality, and manage the cost of care.

These policies are designed to ensure that all providers participating in the HIE use and disclose information appropriately and in compliance with all applicable state and federal health information privacy laws. Healthfirst will update these policies and procedures periodically and will make available electronic versions which can be downloaded from our website at hfproviders.org. Information related to these updates may appear on the Healthfirst website and in other mailings. These media provide the most current information on the Healthfirst programs and participating providers’ responsibilities under these programs.

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SECTION 1: DEFINITIONS

- a. *Authorized User* means an Eligible User of a Participant who has been authorized by Healthfirst to access Member Data via the HIE in accordance with these policies and procedures.
- b. *Breach* means the acquisition, access, use, or disclosure of Protected Health Information in a manner not permitted under the HIPAA Privacy Rule which compromises the security or privacy of the Protected Health Information. An acquisition, access, use, or disclosure of Protected Health Information in a manner not permitted under the HIPAA Privacy Rule is presumed to be a Breach unless the Participant or Healthfirst, as applicable, demonstrates that there is a low probability that the Protected Health Information has been compromised based on a risk assessment of at least the following factors: (i) the nature and extent of the Protected Health Information involved, including the types of identifiers and the likelihood of re-identification; (ii) the unauthorized person who used the Protected Health Information or to whom the disclosure was made; (iii) whether the Protected Health Information was actually acquired or viewed; and (iv) the extent to which the risk to the Protected Health Information has been mitigated. Breach excludes: (A) any unintentional acquisition, access, or use of Protected Health Information by a workforce member or person acting under the authority of a Participant or Healthfirst, if such acquisition, access, or use was made in good faith and within the scope of authority and does not result in further use or disclosure in a manner not permitted under the HIPAA Privacy Rule; (B) any inadvertent disclosure by a person who is authorized to access Protected Health Information at a Participant or Healthfirst to another person authorized to access Protected Health Information at the same Participant or Healthfirst, or Organized Health Care Arrangement in which the Participant participates, and the information received as a result of such disclosure is not further used or disclosed in a manner not permitted under the HIPAA Privacy Rule; and (C) a disclosure of Protected Health Information where a Participant or Healthfirst has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain such information.
- c. *Care Management* means (i) assisting a Member in obtaining appropriate medical care; (ii) conducting data analytics to determine which services should be provided to a Member; (iii) coordinating the provision of multiple health care services to a Member; (iv) contacting health care providers and Members with information about treatment alternatives; or (v) supporting a Member in following a plan of medical care.
- d. *EHR* means an electronic health record system maintained by a Participant.
- e. *Eligible User* means an employee, independent contractor or medical staff member of a Participant.
- f. *Health Care Operations* means all of the activities listed under the definition of health care operations at 45 C.F.R. § 164.501, which include, but are not limited to, Care Management and Quality Improvement.
- g. *Health Care Provider* has the meaning ascribed to this term under 45 C.F.R. § 160.103.
- h. *Healthfirst* means Healthfirst PHSP, Inc., Healthfirst Health Plan, Inc., and Healthfirst Insurance Co., Inc., which are New York not-for-profit corporations licensed under

either Article 43 of the New York Insurance Law or Article 44 of the New York Public Health Law.

- i. *HIE* means the Healthfirst Health Information Exchange, a system which allows Healthfirst and certain Participants to exchange and access Member Data relating to services, procedures, diagnoses, medications, and other aspects of clinical care regarding Members in accordance with the terms of the HIE Participation Agreement, if applicable, and these policies and procedures.
- j. *HIE Participation Agreement* means, if applicable, the written agreement entered into by a Participant with Healthfirst governing the use of the HIE by the Participant and, if the Participant is an IPA, by Participants who are the IPA's IPA Contractors.
- k. *HIPAA* means the Health Insurance Portability and Accountability Act of 1996, as amended, and the regulations promulgated thereunder at 45 C.F.R. Parts 160 and 164.
- l. *HIPAA Covered Entity* has the meaning ascribed to this term under 45 C.F.R. § 160.103.
- m. *HIPAA Privacy Rule* means the federal regulations at 45 C.F.R. Part 160 and Subparts A and E of Part 164.
- n. *HITECH* means the Health Information Technology for Economic and Clinical Health Act, and its implementing regulations.
- o. *IPA* means an independent practice association formed under 10 N.Y.C.R.R. Section 98-1.5(b)(6)(vii).
- p. *IPA Contractor* means a Health Care Provider that has entered into a written agreement with an IPA under which the Health Care Provider agrees to provide health care services to Members and receive payment for such services from Healthfirst or IPA.
- q. *Member* means an individual who is enrolled in and entitled to receive coverage of health care services from a health plan operated by Healthfirst.
- r. *Member Data* means Protected Health Information about a Member.
- s. *Minor Consent Service* means a health care service provided to a minor for which the minor provides his or her own informed consent without a parent's or guardian's permission, as authorized by applicable law. Minor Consent Services may include reproductive health care, abortions, HIV testing, mental health treatment, or substance abuse treatment provided to a minor.
- t. *Network Participation Agreement* means the agreement(s) entered into by a Provider with Healthfirst under which the Provider provides or arranges for the provision of health care services to Members and Healthfirst reimburses the Provider for such services.
- u. *Organized Health Care Arrangement* or *OHCA* means an arrangement that meets the HIPAA definition of an organized health care arrangement at 45 C.F.R. § 160.103.
- v. *Participant* means a (i) Provider Organization that is participating in an Organized Health Care Arrangement with Healthfirst; (ii) a hospital, IPA, or other Health Care Provider that has entered into a written agreement with Healthfirst comparable to the

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HIE Participation Agreement to obtain access to the HIE, (iii) if Provider Organization is an IPA and has entered into a written agreement with Healthfirst comparable to the HIE Participation Agreement to obtain access to the HIE, all IPA Contractors, or (iv) a Health Care Provider that is a HIPAA Covered Entity, meets Healthfirst's privacy and security requirements for accessing the HIE, has a verified Treatment relationship with one or more Members, meets all criteria in the Policy and Procedure, has agreed to contribute Member Data to the HIE, and has executed a written agreement with Healthfirst comparable to the HIE Participation Agreement to obtain access to the HIE.

- w. *Participant Approver* has the meaning set forth in Section 2.c of these policies and procedures.
- x. *Payment* means the activities undertaken by (i) a health plan to obtain premiums or to determine or fulfill its responsibility for coverage and provision of benefits under the health plan or (ii) a health care provider or health plan to obtain or provide reimbursement for the provision of health care. Examples of payment are set forth in the HIPAA Privacy Rule at 45 C.F.R. § 164.501.
- y. *Permitted Use* is a use of Member Data through the HIE that is permitted under Section 7 of these policies and procedures.
- z. *Protected Health Information* means all individually identifiable health information that: (i) is created or received by a health care provider, health plan, employer, or health care clearinghouse; (ii) relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; (iii) identifies that individual (or there is a reasonable basis to believe can be used to identify the individual); and (iv) is not subject to any of the exclusions identified in the definition of protected health information at 45 C.F.R. § 160.103.
- aa. *Provider Organization* means a Health Care Provider or IPA that has entered into a Network Participation Agreement with Healthfirst or another agreement with Healthfirst under which the Health Care Provider or IPA assumes financial risk for the costs incurred by Healthfirst for some or all covered health services provided to Members attributed to the Health Care Provider or IPA.
- bb. *Psychotherapy Notes* means notes recorded (in any medium) by a Health Care Provider who is a mental health professional documenting or analyzing the contents of conversation during a private counseling session or a group, joint, or family counseling session and that are separated from the rest of the individual's medical record. Psychotherapy Notes excludes prescribed medication and monitoring of prescribed medication, counseling session start and stop times, the modalities and frequencies of treatment furnished, results of clinical tests, and any summary of the following items: diagnosis, functional status, the treatment plan, symptoms, prognosis, and progress to date.
- cc. *Quality Improvement* means activities designed to improve processes and outcomes related to the provision of health care services. Quality Improvement includes, but is not limited to, outcomes evaluation, development of clinical guidelines (provided that the obtaining of generalizable knowledge is not the primary purpose of any studies resulting from such activities), and patient safety activities. Quality Improvement does not include Research.

- dd. *Research* means a systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to generalizable knowledge.
- ee. *Related Documentation* means all materials, documentation, specifications, technical manuals, user manuals, flow diagrams, file descriptions and other written information that describes the function and use of related Software or Tools.
- ff. *Software* means the source code and object code versions of any applications programs, operating system software, computer software languages, utilities, other computer programs and Related Documentation, in whatever form or media, including the tangible media upon which such programs, software, languages, and Related Documentation are recorded or printed, together with all corrections, improvements, updates and releases thereof.
- gg. *Treatment* means the provision, coordination, or management of health care and related services by one or more Health Care Providers, including the coordination or management of health care by a Health Care Provider with a third party; consultation between Health Care Providers relating to a patient; or the referral of a patient for health care from one Health Care Provider to another.
- hh. *Tools* means any Software development and performance testing tools, and any know-how, methodologies, processes, technologies or algorithms and Related Documentation.

SECTION 2: ACCESS CONTROLS

- a. **Access Restrictions.** Participants may access Member Data maintained in the HIE only through an Authorized User. Participants shall not permit any person other than an Authorized User to access Member Data through the HIE. Participants shall prohibit their Authorized Users from allowing any other person to access the HIE through the Authorized User's log-in credentials.
- b. **Role-Based Access**
 1. An Authorized User is permitted to access Member Data only (i) through the HIE that the Authorized User is eligible to use under the applicable role-based access standards, and (ii) for a Permitted Use that is associated with the HIE.
 2. Role-based access standards for the HIE are set forth in Section 7.
- c. **Assignment of Credentials**
 1. Each Participant shall identify no more than two (2) individuals within its organization who are responsible for granting access to the HIE to Authorized Users (the "Participant Approver"). Each Participant shall promptly notify Healthfirst of any change in the individuals designated to perform the function of a Participant Approver. If a Participant is an IPA, the IPA shall identify no more than two (2) Participant Approvers who are responsible for managing access to the HIE for the Authorized Users of all of its IPA Contractors.
 2. The Participant Approvers shall provide to Healthfirst, through a mechanism established by Healthfirst, the name and contact information of each Eligible User of the Participant seeking to become an Authorized User of the HIE. This notification shall also include a description of the individual's job title and role in the Participant's organization. A Participant may only seek access to the HIE for individuals who meet the requirements of the role-based access standards of these policies and procedures.
 3. Healthfirst shall assign HIE credentials to all Participant identified individuals to become an Authorized User in accordance with these policies and procedures. Healthfirst may request additional information from the Participant to verify that the individual seeking to become an Authorized User meets the role-based access standards of the HIE.
- d. **Training of Authorized Users**
 1. Each Participant shall ensure that each of its Authorized Users undergoes annual HIPAA privacy and security training at least annually, or more frequently if required by HIPAA.
 2. Each Participant shall ensure that records of training of its Authorized Users are maintained and available for audit for a period of at least six years.
 3. If the Participant is an IPA, the IPA shall be responsible for ensuring that the foregoing training requirements are satisfied for Authorized Users of all of its IPA Contractors.

e. **Termination of Authorized Users**

1. Each Participant shall inform a designated Healthfirst employee of the following circumstances so that Healthfirst may terminate an Authorized User's access to the HIE:
 - i. Termination of an Authorized User's employment, contract or medical staff membership with the Participant; or
 - ii. A change in an Authorized User's role with the Participant that renders the Authorized User's continued access to the HIE inappropriate under the role-based access standards set forth in these policies and procedures.
 2. Each Participant shall inform Healthfirst of the circumstances described in Section 2.e.1 no less than five (5) business days prior to the effective date of such termination or change, except if such termination or change is unanticipated, in which case the Participant shall provide such notice within one (1) business day thereof.
 3. Healthfirst shall terminate system access to the HIE for an Authorized User within one (1) business day of receipt of notice from a Participant that such Authorized User's access should be terminated.
 4. If Healthfirst delegates to a Participant the responsibility of terminating an Authorized User's access to the Healthfirst Applications, the Participant shall terminate an Authorized User's access under the circumstances and within the applicable timeframes specified in Section 2.e.2 above.
 5. If a Participant is an IPA, the IPA shall be responsible for complying with the termination requirements for Authorized Users of all of its IPA Contractors.
- f. **HIE Specific Rules:** Participants must abide by the HIE's specific access controls set forth in Section 7.

SECTION 3: USE AND DISCLOSURE OF MEMBER DATA

- a. **Compliance with HIPAA and Other Laws and Regulations.** Healthfirst and Participant shall comply with all applicable standards for the confidentiality, security and use of Member Data under HIPAA, 42 C.F.R. Part 2, Article 33 of the New York Mental Hygiene Law, Article 27-F of the New York State Public Health Law, and any other applicable federal and state laws or regulations. Neither party shall use or disclose Member Data without the Member's authorization except to the extent permitted by applicable laws and regulations.
- b. **Data Supply**
 1. Absent meeting additional legal requirements governing the release of the below defined Member Data (e.g. a written consent for release of alcohol or drug abuse information subject to 42 C.F.R. Part 2 that complies with these regulations, as applicable), a Participant *shall not* make any of the following Member Data accessible to Healthfirst for use in the HIE:
 - i. Member Data that identifies a Member as having received services from a federally assisted alcohol or drug abuse program that is subject to 42 C.F.R. Part 2;
 - ii. Genetic test records and results subject to the restrictions of N.Y. Civ. Rights Law § 79-1(3)(a); or
 - iii. Psychotherapy Notes.
 2. Healthfirst shall ensure that the categories of Member Data identified in Section 3.b.1 are not accessible through the HIE.
- c. **Downloading and Redisclosure of Member Data.** A Participant may download into its own medical record system, make further use of and redisclose Member Data obtained through the HIE in accordance with applicable state and federal health information privacy laws, including without limitation, the HIPAA Privacy Rule, Article 27-F of the New York Public Health Law and Section 33.13 of the New York Mental Hygiene Law.
- d. **Patient Consents.** Healthfirst shall obtain from each Member at the time of enrollment a consent that permits Healthfirst to share the Member's Protected Health Information with Participants subject to the restrictions set forth in these policies and procedures and for the purposes set forth herein. Healthfirst shall provide a Participant with a copy of the standard consent forms obtained by Healthfirst upon request.
- e. **Redisclosure Warning.** Healthfirst shall include in the HIE a warning statement that is viewed by Authorized Users whenever they are obtaining access to HIV/AIDS information that contains the language required by Article 27-F of the New York Public Health Law. To the extent consistent with applicable law, Healthfirst may satisfy this requirement by (i) placing such a redisclosure warning on all records that are made accessible through the Healthfirst Applications or (ii) placing such a redisclosure warning on a log-in screen that Authorized Users must view before logging into the Healthfirst Applications.
- f. **Minimum Necessary Standard.** Each Participant shall require its Authorized Users, when accessing Member Data via the HIE, to make reasonable efforts to limit the

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amount and type of Member Data accessed to the minimum necessary to carry out the relevant Permitted Use.

- g. **Organized Health Care Arrangement.** To the extent applicable, each Participant agrees to be part of an OHCA with Healthfirst and other providers participating in the HIE for purposes of HIPAA to carry out joint quality improvement, care coordination and utilization management activities, as described in Healthfirst's Notice of Privacy Practices. Each Participant that is part of the OHCA shall cooperate in efforts to notify the public of the joint quality improvement, care coordination and utilization management activities carried out by Healthfirst and the Participant in order to qualify such joint activities as an OHCA. As of May 2022, members of the OHCA are as follows: (1) Mount Sinai Health System (Mount Sinai Hospital, Mount Sinai Beth Israel, Mount Sinai Morningside, Mount Sinai West Roosevelt); (2) St. Barnabas Hospital; (3) Medisys Health Network; (4) Maimonides Medical Center; (5) BronxCare Health System; (6) NYC Health + Hospitals; (7) The Brooklyn Hospital Center; (8) Northwell Health; (9) NYU Langone Health; (10) Montefiore Medical Center; (11) Stony Brook University Medical Center; (12) Interfaith Medical Center; (13) St. John's Episcopal Hospital; (14) SUNY-Downstate Medical Center/ University Hospital of Brooklyn; (15) NuHealth; and (16) SOMOS Community Center.

SECTION 4: AUDITS

a. Maintenance of Audit Logs

1. Healthfirst shall maintain an audit log that documents all access to Member Data via the HIE.
2. The audit log shall, at a minimum, include the following information:
 - i. The identity of the Member whose Member Data was accessed;
 - ii. The identity of the Authorized User accessing the Member Data;
 - iii. The identity of the Participant with which such Authorized User is affiliated;
 - iv. The date and time of access;
 - v. The source of the Member Data (i.e., the identity of the person or entity from whose records the accessed Member Data was derived); and
 - vi. Unsuccessful access (log-in) attempts.
3. The audit log shall be immutable, meaning that the log requires either that log information cannot be altered by anyone regardless of access privilege or that any alterations are tamper evident.
4. Healthfirst shall maintain audit log information for a period of at least six (6) years from the date on which information is accessed.

b. Healthfirst Audits

1. Healthfirst (or a third party engaged by Healthfirst) may conduct audits of Participants on a periodic basis to monitor the use of the HIE by Participants and their Authorized Users. Participants and their Authorized Users will reasonably cooperate in such audits.
2. Such audits may address:
 - i. Whether Authorized Users affiliated with a Participant who accessed Member Data did so for Permitted Uses;
 - ii. Whether a Participant promptly notified Healthfirst of the termination of an Authorized User;
 - iii. Any other issues that relate to a Participant's compliance with these policies and procedures.
3. Audits will take place during normal business hours and at mutually agreeable times and shall be limited to such records, personnel, and other resources of the Participant as are necessary to determine the proper use of the HIE and compliance with these policies and procedures. Such audits will be performed

at the expense of Healthfirst and in a manner designed to reasonably minimize interference with the Participant's day-to-day operations.

4. If a Participant accesses the HIE through such Participant's own EHR, such Participant must maintain an audit log that meets the requirements of Section 4.a and make such audit log available to Healthfirst in the event that Healthfirst conducts an audit of such Participant.

c. Participant Self-Audits

1. Each Participant shall conduct annual HIPAA privacy audits of the use of the HIE by its Authorized Users.
2. Healthfirst shall provide information in its audit log to a Participant to the extent that information is necessary for a Participant to conduct an audit.
3. Each Participant shall report the result of any audits it undertakes to Healthfirst.

d. Audit Follow-Up

1. If any audit, whether conducted by Healthfirst or a Participant, identifies any non-compliance with these policies and procedures or applicable law, the Participant shall submit a corrective action plan to Healthfirst no later than thirty (30) days after the audit finding was made that is intended to remedy such non-compliance.
2. If any audit, whether conducted by Healthfirst or a Participant, identifies any data inconsistency or potential error in the information in the HIE, the Participant and Healthfirst shall work cooperatively to identify the root cause of that inconsistency or error and ensure its correction.

SECTION 5: BREACH NOTIFICATION

a. Notification of Breaches

1. A Participant shall use its best efforts to notify Healthfirst within forty eight (48) hours, and in all cases shall notify Healthfirst within (5) business days, of the Participant's discovery of a Breach of Protected Health Information relating to the use of the HIE by a Participant, any Authorized User of the Participant or any individual accessing the HIE through the credentials of a Participant's Authorized User.
2. Healthfirst shall use its best efforts to notify a Participant within forty eight (48) hours of, and in all cases shall notify such Participant within (5) business days, of Healthfirst's discovery of a Breach of Participant's Protected Health Information (i) relating to the use of the HIE by Healthfirst personnel or (ii) reported to Healthfirst by another Participant.

b. Form and Timing of Notice

1. In the event a Participant is required to provide notice of a Breach to Healthfirst, such notice shall include:
 - i. To the extent known, a brief description of what happened, including the date of the Breach and the date of the discovery of the Breach;
 - ii. To the extent known, a description of the types of Protected Health Information that were involved in the Breach (such as whether the full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);
 - iii. Any recommended steps Members should take to protect themselves from potential harm resulting from the Breach; and
 - iv. A brief description of what Participant is doing to investigate the breach, to mitigate harm to Members, and to protect against any further breaches.
2. In the event Healthfirst is required to provide notice of a Breach to a Participant, Healthfirst shall provide the Participant with the same type of information set forth in Section 5.b.1.

c. **Additional Participant Responsibilities:** In the event a Participant discovers a Breach of any Protected Health Information obtained through the HIE relating to the use of the HIE by the Participant, any Authorized User of the Participant or any individual accessing the HIE through the credentials of the Participant's Authorized User, the Participant, in addition to the notification obligation described herein, shall:

1. In the most expedient time possible and without unreasonable delay, investigate the scope and magnitude of the Breach, and make all commercially reasonable efforts to identify the root cause of the Breach.

2. Mitigate to the extent practicable any harmful effect of such Breach that is known to the Participant.
3. Notify Members, media outlets, regulatory agencies, and any other entities as required by and in accordance with applicable federal and state laws and regulations, including but not limited to HIPAA, HITECH and Section 899-aa of the New York General Business Law.

SECTION 6: OTHER SECURITY PRACTICES

- a. **Risk Analysis.** The security risk analysis carried out periodically by each Participant under HIPAA shall include an assessment of any risks associated with the Participant's use of the HIE. Participants shall implement any recommendations for resulting from such risk analyses.
- b. **Virus Protection.** In providing any Member Data to the HIE, each Participant shall use reasonable efforts to ensure that the medium containing such data does not include, and that any method of transmitting such data will not introduce, any program, routine, subroutine, or data which will disrupt the proper operation of the HIE, or which, upon the occurrence of a certain event, the passage of time, or the taking of or failure to take any action will cause the HIE to be destroyed, damaged or rendered inoperable.
- c. **Use of Mobile Devices and Offsite Access.** Participant may access Member Data through the HIE through all electronic devices regardless of whether those devices are located within the Participant's facilities.
- d. **HIPAA Security Rule Compliance.** In addition to the security practices expressly required by these policies and procedures, each Participant shall ensure that the use of the HIE by Participant and its Authorized Users complies in all material respects with the security regulations issued under HIPAA.

SECTION 7: HIE REQUIREMENTS

- a. **Applicability:** In addition to all other applicable requirements of these policies and procedures, access to Member Data through the HIE shall comply with the requirements of this Section 7.
- b. **Access to the HIE:** Authorized Users of all Participants may access Member Data through the HIE.
- c. **Member Data Accessible:** Authorized Users may access Member Data through the HIE in accordance with the following standards:
 1. An Authorized User must be authorized to provide healthcare services for or on behalf a Participant with a treating provider relationship with a Member in order to access that Member's information through the HIE. A Participant has a treating provider relationship with a Member if (i) the Participant or any clinician employed by or contracted with the Participant to perform healthcare services is currently providing Treatment to the Member; (ii) the Member is scheduled to receive Treatment from the Participant; or (iii) the Member has been assigned to a primary care practitioner who is employed or contracted by the Participant. If a Participant is an IPA, Authorized Users of the IPA may access a Member's information through the HIE if the Member has a treating provider relationship with any of the IPA's IPA Contractors.
 2. If Healthfirst is unable to verify through the HIE that a treating provider relationship exists, an Authorized User may nevertheless access a Member's information by "breaking the glass," which entails certifying that a treating provider relationship exists. An Authorized User's "break the glass" access to a Member's Data may continue for up to 30 days after the submission of such certification. Break the glass access will be audited by Healthfirst.
 3. In cases where an Authorized User logs on to the HIE through an EHR instead of logging into the HIE directly, the Authorized User will only have access to the Healthfirst Data either through:
 - i. a Healthfirst patient summary document, which may be pulled from the HIE into the Participant EHR (or other system of access as implemented by the Participant); or
 - ii. a nested window whereby the Participant EHR presents the HIE as either a subsequent screen within a patient record or as a "pop up."
- d. **Data Supply:** Subject to Section 3.b, each Participant shall provide reasonable cooperation to enable Healthfirst to upload to the HIE the following data elements from following sources:
 1. EHR data elements shall include, but are not limited to, the following:
 - i. Blood Pressure (both systolic and diastolic measurements from the ambulatory or clinic setting);

- ii. Body Mass Index (height, weight, and calculated BMI);
 - iii. Patient visit progress notes and plans;
 - iv. Prenatal Care Visit Notes (American College of Obstetrics and Gynecology Form Format);
 - v. Discharge Summaries;
 - vi. Ancillary Results (in support of HEDIS activity), including, but not limited to, laboratory testing results (e.g. HgbA1c, HIV Viral Loads, Syphilis, and other laboratory test results not submitted as part of the HEDIS supplemental data feed);
 - vii. Older Adult Care: Functional Assessment;
 - viii. Older Adult Care: Medication Review;
 - ix. Older Adult Care: Pain Screening;
 - x. Colorectal Cancer Screening; and
 - xi. Ophthalmology Notes.
2. Provider registration and scheduling data elements shall include, but are not limited to, the following:
- i. Patient demographics;
 - ii. Admissions, Discharges and Transfers (for inpatient, emergency room events, and potentially clinic scheduling); and
 - iii. Registration and Scheduling (for ambulatory events).
- e. **Role-Based Access:** Authorized Users shall be allowed to access Member Data through the HIE in accordance with the following role-based access standards, and those additional roles as subsequently authorized by Healthfirst and the Provider Approver:

Permitted Use	Authorized User Roles
Treatment	Physician: In a primary care, consulting, emergency, or specialist role. Registered Nurse Nurse Practitioner Physician's Assistant
Quality Improvement	Physician

	Registered Nurse Nurse Practitioner Quality Director Quality Manager Quality Analyst Managed Care Director Systems Administrator, for the purpose of pulling HIE generated reporting
Care Management	Physician Registered Nurse Nurse Practitioner

- f. **Authentication Standards:** The following authentication standards shall apply to Authorized Users access to the HIE directly:
1. Usernames must be at least three characters in length and must start with a letter.
 2. Passwords must be at least eight characters in length and must contain at least one three of the following:
 - a. Uppercase letter (A-Z)
 - b. Lowercase letter (a-z)
 - c. Number (0-9)
 - d. Symbol (!@#\$\$%^&()*)
 3. Authorized Users shall be automatically logged out of the HIE after a period of system inactivity of 15 minutes by such Authorized User. The termination shall remain in effect until the Authorized User reestablishes access using appropriate identification and authentication procedures.
 4. Authorized User accounts shall be deactivated if they have not been used for a period of thirty (30) days, after which time the Authorized User must submit a request to Healthfirst to reactivate the account.
 5. Authentication standards applicable to access to the HIE through a Participant's EHR shall meet the requirements of Section 7.f.1 or otherwise shall be approved by Healthfirst.
- g. **Training of Authorized Users:**

1. In addition to the requirements of Section 2.d, Healthfirst shall provide HIE training/instruction to the training staff of each Participant. Each Participant shall provide training to its Authorized Users to familiarize them with the operation of the HIE and these policies and procedures. Such training may be on-site, web based, or in another comparable form.
 2. Each individual seeking to become an Authorized User shall undergo such training prior to being granted access to Member Data via the HIE. The Participant shall not seek Authorized User credentials for any identified individuals until the individual has completed such training.
 3. Each Authorized User shall sign a certification that he or she has received training and will comply with these policies and procedures. Such certification may be made in paper form or electronically, shall be retained by the Participant for at least six (6) years, and shall be made available to Healthfirst upon request.
- h. **Prohibited Uses of HIE.** Participant shall use the HIE only for Participant's own account and Participant's Authorized Users, and shall not use any part of the HIE to provide separate services or sublicenses to any third party, including without limitation providing any service bureau services or equivalent services to a third party. Participant shall use the HIE only for Permitted Uses, and not for any purpose that violates any state or federal law or regulation.
- i. **No Reverse Engineering.** Participant shall not (nor shall Participant authorize or permit any third party to) (i) create or attempt to create by reverse engineering or otherwise any Software or Tools of the HIE; (ii) ascertain or attempt to ascertain the design or operation of any Software or Tools of the HIE; or (iii) derive or attempt to derive the source code for any Software or Tools of the HIE.
- j. **Nondisclosure.** Participant recognizes and acknowledges the competitive value of the HIE and damages that could result from use thereof for any purpose other than that which is expressly permitted by these policies and procedures or from the disclosure and/or access thereof to third parties. Accordingly Participant agrees that, except as required by applicable law, regulation or legal process, neither Participant nor its representatives will disclose to any third party in any manner, whatsoever, in total or in part, any information related to the HIE. In the event that Participant is requested or required by law, regulation or legal process to disclose information on or related to the HIE, it will promptly notify Healthfirst in writing so that Healthfirst may seek a protective order or other appropriate remedy and/or waive compliance with these policies and procedures.
- k. **Remedy for Breach.** The parties acknowledge and agree that disclosure of the HIE and Member Data to third parties will result in irreparable harm to Healthfirst. Participant further agrees that in the event of a breach or threatened breach of the foregoing provisions Healthfirst shall be entitled to injunctive or similar relief to specifically enforce such provisions. This equitable relief shall be in addition to any other remedy that Healthfirst may have at law.

SECTION 8: PARTICIPATION TERMS

- a. **Effective Date.** These policies are applicable to Participants beginning the date on which a Participant first uploads Member Data to the HIE.
- b. **Termination of Participant Access to the HIE.** Healthfirst may terminate a Participant's access to the HIE as follows:
 1. At any time without cause by giving not less than ninety (90) days' written notice to the Participant.
 2. Upon Participant's material breach of the obligations set forth in these policies and procedures, which breach remains uncured for a period of thirty (30) days after Healthfirst has given the Participant notice of that breach and requested that Participant cure that breach; provided that no opportunity to cure shall be provided and termination shall be immediate in the event of (a) a breach that cannot reasonably be cured within thirty (30) days, (b) repeated breaches of the same obligation or (c) a breach that would expose Healthfirst to civil or criminal liability or would otherwise cause a violation of applicable laws, rules, regulations or accreditation standards applicable to Healthfirst.
 3. Immediately without the need for notice or other action by Healthfirst in the event that Participant is no longer a Provider Organization
 4. Upon thirty (30) days' written notice to Participant in the event Healthfirst ceases to operate the HIE.
- c. **Participant Withdrawal from the HIE.** Participant may withdraw from participation in the HIE as follows:
 1. At any time by giving not less than ninety (90) days' written notice to Healthfirst.
 2. In the event an amendment to these policies and procedures adopted by Healthfirst has a material adverse effect on Participant, Participant may terminate participation in the HIE by giving Healthfirst written notice thereof prior to the date on which the amendment becomes effective. Such termination shall go into effect on the date the amendment would otherwise be imposed on Participant.
- d. **Grant of Rights by Participant.**
 1. Participant grants to Healthfirst a worldwide, non-exclusive, non-transferable, limited, royalty-free right (i) to permit other Participants to use all Member Data provided by Participant in accordance with the Policies and Procedures and (ii) to permit Healthfirst to use such Member Data to carry out Healthfirst's duties under the policies and procedures, including without limitation, Healthfirst operations, system administration, testing, problem identification and resolution, management of the HIE, data aggregation activities as permitted by applicable state and federal laws and regulations.
 2. Participant acknowledges and agrees that Participant grants to other Participants the right to receive, use and exchange Participant's Member Data in accordance

with these policies and procedures. Participant agrees that Healthfirst has no responsibility for the acts or omissions of any users accessing or utilizing the HIE through any Participant.

3. Participant will use reasonable efforts to provide Member Data that accurately reflects the relevant data in Participant's (and if Participant is an IPA, its IPA Contractors') electronic records at the time such Member Data is made accessible through the HIE. Participant agrees that Healthfirst has no responsibility for the accuracy of Member Data provided by other Participants through the HIE.
- e. **Compliance with Investigations.** If Healthfirst becomes aware of the occurrence of any incident or report involving the use of or access to the HIE, whether or not involving unauthorized use or access, Participant shall take such actions as may reasonably be requested by Healthfirst to assist Healthfirst in investigating the nature and severity of the circumstances leading to such incident or report and to report the incident as appropriate.
- f. **Carrier Lines.** Participant acknowledges that access to the HIE is to be provided over various facilities and communications lines, and information will be transmitted over local exchange and internet backbone carrier lines and through routers, switches, and other devices (collectively, "carrier lines") owned, maintained, and serviced by third-party carriers, utilities, and internet service Providers, all of which are beyond Healthfirst's control. Healthfirst assumes no liability for or relating to the integrity, privacy, security, confidentiality, or use of any information while it is transmitted on the carrier lines, or any delay, failure, interruption, interception, loss, transmission, or corruption of any data or other information attributable to transmission on the carrier lines. Use of the carrier lines is solely at user's risk and is subject to all applicable local, state, national, and international laws.
- g. **NO WARRANTIES.** ACCESS TO THE HIE, USE OF THE HIE AND THE INFORMATION OBTAINED BY PARTICIPANT PURSUANT TO THE USE OF THE HIE ARE PROVIDED "AS IS" AND "AS AVAILABLE" WITHOUT ANY WARRANTY OF ANY KIND, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. PARTICIPANT IS SOLELY RESPONSIBLE FOR ANY AND ALL ACTS OR OMISSIONS TAKEN OR MADE IN RELIANCE ON THE HIE OR THE INFORMATION IN THE HIE, INCLUDING INACCURATE OR INCOMPLETE INFORMATION. IT IS EXPRESSLY AGREED THAT IN NO EVENT SHALL EITHER HEALTHFIRST OR PARTICIPANT BE LIABLE FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL, OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO, LOSS OF PROFITS OR REVENUES, LOSS OF USE, OR LOSS OF INFORMATION OR DATA, WHETHER A CLAIM FOR ANY SUCH LIABILITY OR DAMAGES IS PREMISED UPON BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER THEORIES OF LIABILITY, EVEN IF SUCH PARTY HAS BEEN APPRISED OF THE POSSIBILITY OR LIKELIHOOD OF SUCH DAMAGES OCCURRING. EACH OF HEALTHFIRST AND PARTICIPANT DISCLAIMS ANY AND ALL LIABILITY FOR ERRONEOUS TRANSMISSIONS AND LOSS OF SERVICE RESULTING FROM COMMUNICATION FAILURES BY TELECOMMUNICATION SERVICE PROVIDERS OR THE HIE.
- h. **Other Participants.** Participant acknowledges that other Participants will have access to Member Data provided by Participant through the HIE. Healthfirst represents that other Participants have agreed to comply with these policies and procedures

concerning use of Member Data made available through the HIE. Notwithstanding the foregoing, Participant acknowledges and agrees that the actions of other Participants are beyond the control of Healthfirst. Accordingly, Healthfirst does not assume any liability for or relating to any impairment of the privacy, security, confidentiality, integrity, availability, or restricted use of any Member Data resulting from any other Participant's actions or failures to act.

- i. **Limitation of Liability.** Notwithstanding anything in these policies and procedures to the contrary, to the maximum extent permitted by applicable law, neither Healthfirst nor Participant shall be liable to the other party for any indirect, consequential, special, incidental, punitive, or other exemplary losses or damages, including without limitation lost or prospective profits, whether based in contract, warranty, negligence, strict liability or other tort or otherwise, regardless of the foreseeability or the cause thereof, with respect to claims arising under or relating to use of the HIE.
- j. **Participant Indemnification.** Participant shall indemnify and hold harmless Healthfirst and its directors, officers and employees (the "Indemnified Parties") from and against any losses arising out (i) Participant's or any of its Authorized Users' failure to comply with the terms of these policies and procedures or (ii) the negligence or willful misconduct of Participant or any of its Authorized Users in connection with the use of the HIE.
- k. **Indemnification Procedure.** If any claim is commenced against the Indemnified Parties, prompt notice thereof shall be given by Healthfirst to Participant. Healthfirst and Participant shall agree upon the party who will be responsible for the defense of such claim; provided, however, that if the parties cannot agree upon the party who will be responsible for the defense of such claim within 15 days after receipt by Participant of such notice, (1) Participant shall immediately take control of the defense of such claim and shall engage attorneys acceptable to Healthfirst (which acceptance shall not be unreasonably withheld) to defend such claim; and (2) Healthfirst shall cooperate with Participant (and its attorneys) in the defense of such claim. Healthfirst may, at its own cost and expense, participate (through its attorneys or otherwise) in such defense. If Participant does not assume control over the defense of a claim as provided herein, Healthfirst may defend the claim in such manner as it may deem appropriate, at the cost and expense of Participant. If Participant assumes control over the defense of a claim as provided in herein, Participant may not settle such claim without the consent of Healthfirst if the settlement provides for relief other than the payment of monetary damages or for the payment of monetary damages for which Healthfirst will not be indemnified in full pursuant to these policies and procedures.

