## Application for Participation in the eHealth Exchange

(Rev. 6/11/2019)

INSTRUCTIONS:

**Please complete and e-mail the following information to administrator@ehealthexchange.com**

* A complete and signed Application for Participation;
* An executed Joinder of the DURSA (version dated September 30, 2014) along with the completed contacts for notice in Appendix D.
* An executed copy of the eHealth Exchange Participant Agreement (version dated May 2019), which includes a Hub Addendum and BAA Addendum)

This document serves as an application to participate in the eHealth Exchange. Those who participate in this electronic exchange of health information are known as “Participants.”

Organizations that wish to be considered for “Participant” status should complete and submit this Application for Participation. The eHealth Exchange Coordinating Committee (“Coordinating Committee”) is responsible for reviewing and acting upon Applications for Participation. The Participants have granted the Coordinating Committee this responsibility in Section 4.03 of the DURSA.

To help the Coordinating Committee fulfill its responsibility in a consistent and effective manner, the Participants have adopted an Operating Policy and Procedure for Review and Disposition of Applications ([www.ehealthexchange.com](http://www.ehealthexchange.com)). The Coordinating Committee will review the Applicant’s Application in accordance with this Operating Policy and Procedure.

All information in this Application for Participation will be used by the Coordinating Committee to determine whether the Applicant meets the eligibility requirements for participation.

If the Coordinating Committee determines that the Applicant meets the eligibility requirements for participation and has successfully completed all applicable technical testing, the Coordinating Committee will conditionally accept the Applicant as a Participant. Within 180 calendar days of the Coordinating Committee conditionally accepting the Applicant as a Participant, the Applicant must be able to begin exchanging data with other Participants.

The Applicant becomes a Participant only when: (i) the Applicant’s system is operational, in production and ready to exchange information with other Participants in production; (ii) the Applicant has installed the production Digital Credentials (i.e. production X.509 digital certificate), if applicable; and (iii) the DURSA Joinder Agreement has been countersigned. Until such time, the Applicant may not publically refer to itself as a “Participant.”

NOTE: The DURSA and Participation Agreement WILL NOT be countersigned until you are issued digital credentials.

**This document is submitted this, the \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_, 20\_\_, to the eHealth Exchange Coordinating Committee by the organization listed below (“Applicant”) to become a Participant in the eHealth Exchange.**

Part I: Basic Applicant Information

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| **Organization Name:** |  |
| **Address:** |  |
| **Web Site:** |  |

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| --- | --- | --- | --- |
| **Points of Contact** | | | |
|  | **Primary Business** | **Project** | **Technical** |
| **Name:** |  |  |  |
| **Title:** |  |  |  |
| **Phone:** |  |  |  |
| **E-mail:** |  |  |  |

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| --- | --- | --- | --- |
|  | **Legal** | **Accounting** | **Primary Breach** |
| **Name:** |  |  |  |
| **Title:** |  |  |  |
| **Phone:** |  |  |  |
| **E-mail:** |  |  |  |
|  | **Secondary Breach** | **Other** | **Other** |
| **Name:** |  |  |  |
| **Title:** |  |  |  |
| **Phone:** |  |  |  |
| **E-mail:** |  |  |  |

Check here if you **DO NOT** want the eHealth Exchange to share the name of your Organization with other eHealth Exchange Participants or Applicants.

Part II: Applicant Information

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| 1. **Organization Type and Size** | |
| Governmental:  Federal  State (indicate the state)  Local  Check this option if Applicant is a governmental entity, and indicate if it is a Federal, State or local agency. N/A if you receive funding from, or otherwise have a relationship with, a governmental agency but are not a governmental entity. | Non-Governmental (Select all that apply)  Health Information Exchange Organization (HIO)  State HIO  Regional HIO  Integrated Delivery Network  Academic Institution  Vendor Intermediary  Payer/Health Plan/TPA  Value-Based Care Organization  Vendor  Other (please describe): |
| Applicant Annual Revenue: $\_\_\_\_\_\_\_\_\_\_\_\_\_\_  (Please round down to the nearest million.  Governmental and Nonprofit organizations should report annual operating budget.  This information is used in determining the annual participation fee.) | |
| 1. **Describe how Applicant is currently transacting health information electronically in production on a routine and on-going basis. Please include the following types of information: (*Limit 300 words)***  * the role that the Applicant plays in the exchange of data; * whether the Applicant is exchanging data on its own behalf and/or on behalf of users or clients; * the types of services the Applicant provides to its users or clients (e.g. technology solutions; oversight, facilitation and governance of data exchange activities); and the methods by which the Applicant is currently exchanging data. | |
| 1. **Current use cases and types of data or transactions exchanged:** | |
| 1. **Describe current connectivity:**  |  |  |  | | --- | --- | --- | |  | Types | Total # | |  | # of Hospitals |  | |  | # of Medical Groups (e.g. ambulatory / physician practices, post-acute settings, dialysis centers, etc. |  | |  | | | | Describe geographic coverage area where you exchange data: | | | | |
| 1. **Current volume:** Describe current volume of electronic exchange transactions on a monthly basis. | |
| 1. **Technology Partner:** indicate the technology solution(s) that Applicant plans to use for participation in the eHealth Exchange.  |  | | --- | | Vendor: | | Product Name: | | Version Number: | | Additional information: | | | |
| 1. **What other organizations would you like to connect to via the eHealth Exchange, recognizing the DURSA’s Duty to Respond?**   *Current Participant List:* [www.ehealthexchange.com](http://www.ehealthexchange.com)   |  | | --- | | Federal Participants:  SSA  VA  CMS  DoD | | Non-Federal Participants: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | | |

Part III. DURSA Flow-Down Provisions

The Data Use and Reciprocal Support Agreement (DURSA) is a comprehensive, multi-party trust agreement that is executed by all Participants in the eHealth Exchange. Please ensure that you have reviewed the DURSA in its entirety and that your organization has implemented measures needed to comply with its provisions. All Applicants, as a condition of acceptance in the eHealth Exchange, are required to comply with the provisions of the DURSA. You must have enforceable mechanisms to assure that other participating organizations or users that have access to your eHealth Exchange connection similarly comply.The following questions outlined below will help the Coordinating Committee assess what mechanisms you currently have implemented by your organization, as well as your plans to implement those which are not currently in place.

We understand that you may need to create new or modify existing legal agreements and/or policies and procedures to obligate your participating organizations and users to abide by the terms of the DURSA.Any changes must be implemented prior to the eHealth Exchange Go-Live Date. Additional guidance for each provision is provided in Attachment #1.

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| 1. **Does your organization have enforceable agreements or policies and procedures in place to obligate your participating organizations or users to comply with each of the below provisions, pursuant to Section of the DURSA?**   Question #8 is intended to clarify how your organization has implemented certain obligations in Section 15.04 of the DURSA. eHealth Exchange Participants must carry through DURSA obligations to participating organizations or users who will use your organization’s eHealth Exchange connection. Any organization or individual who is able to access and either initiate or receive messages through your eHealth Exchange connection is held to the same standards in the DURSA in order to maintain a chain of trust in the Exchange.  Please provide a 1-2 sentence statement for each of the following to describe how you are enforcing compliance with your other participating organizations or users.  If you need to modify your policies/procedures/agreements to comply with the provision, please describe your plan. |
| 8a. Do you have policies/procedures/enforceable agreements in place that assure that your participating organizations and/or users comply will Applicable Law? If yes, please describe. |
| 8b. Do you have policies/procedures/enforceable agreements in place that assure that your participating organizations and/or your users will reasonably cooperate with your organization regarding any issues related to the DURSA? If yes, please describe. |
| 8c. Do you have policies policies/procedures/enforceable agreements in place that assure that your participating organizations and/or your users will request, retrieve, and send data only for a Permitted Purpose defined in the DURSA (which is more restrictive than HIPAA)? If yes, please describe. |
| 8d. Do you have policies/procedures/enforceable agreements in place that assure that your participating organizations and/or your users only use data received via the eHealth Exchange in accordance with applicable law and your data retention policies. If yes, please describe. |
| 8e. Do you have policies/procedures/enforceable agreements in place that assure that your participating organizations and/or your users will report **suspected** and **confirmed** Breaches to your organization in order for you to fulfill your obligations in responding to the 1 hour / 24 hour Breach notification requirements in the DURSA (Refer to DURSA Section 14.03). A DURSA breach involves an incident which compromises the transmission of data via your eHealth Exchange connection (Refer to DURSA Section 1 (c)). If yes, please describe. |
| 8f. Do you have policies/procedures/enforceable agreements in place that assure that your participating organizations and/or your users will not disclose any passwords, certificates issued by the eHealth Exchange technical support group, or any other security measures issued to that participating organization that enables connectivity to the eHealth Exchange and / or user by your organization? If yes, please describe. |

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| 1. **Does your organization use a third party intermediary or health information exchange service provider~~)~~ to conduct the exchange of health information on your behalf, pursuant to Section 15.05 of the DURSA?**   Yes. This organization uses a third party intermediary or health information exchange service provider who facilitates the exchange of health information on our behalf.  Please provide a 1-2 sentence statement for each question 9a – 9d to describe how you are enforcing compliance so that your third party intermediary or health information exchange service provider complies with the terms of the DURSA). If you need to modify your contracts or business agreements to comply, please describe your plan.  No. This organization does not use a third party intermediary or health information exchange service provider who facilitates the exchange of health information on our behalf. **(Proceed to Part IV)** |
| 9a. Do you have contracts or business agreements in place that assure that 3rd party intermediaries or health information exchange service providers comply with Applicable Law? If yes, please describe. |
| 9b. Do you have contracts or business agreements in place that assure that that 3rd party intermediaries or health information exchange service providers protect the privacy and security of any Message Content to which it they access? If yes, please describe. |
| 9c. Do you have contracts or business agreements in place that assure that that 3rd party intermediaries or health information exchange service providers as soon as reasonably practicable after determining that a Breach occurred, report such Breach to your organization? If yes, please describe. |
| 9d. Do you have contracts or business agreements in place that assure that that 3rd party intermediaries or health information exchange service providers to reasonably cooperate with the other Participants to the DURSA on issues related to the DURSA, under the direction of your organization? If yes, please describe. |
| By checking this box, to the extent the Applicant needs to create new or make modifications to policies/procedures, contracts, or business agreements, etc. in order to comply with the DURSA flow-down provisions, the Applicant attests that these requirements will be implemented prior to the Go-Live Date and will be verified by eHealth Exchange staff. |

Part IV: Technical Eligibility Requirements

**Select which eHealth Exchange use cases and corresponding eHealth Exchange specifications Applicant will support in production via the eHealth Exchange.**

Lookup and Retrieve Documents (Query) (for treatment, transitions of care and/or Social Security eligibility)

Access Consent Policy – required to transact with the SSA (optional use case that enables a participant to send additional policies to restrict access in connection with the message)

Deferred Messaging for Patient Discovery (optional use case that enables a participant to defer the actual processing of patient discovery requests in lieu of responding immediately)

Direct Secure Messaging

FHIR

Immunization Use Case – this is a push of immunization data for treatment purposes

Authorized Release of Information – Individual Access to Health Information (e.g. via a Personal Health Record)

PDMP (Treatment sub-use case)

Electronic Lab Reporting (Use case, in support of public health)

Syndromic Surveillance (Use case, in support of public health)

Electronic Case Reporting (eCR) (Use case, in support of public health)

**Content – please indicate what content types you will support in production**

HL7, v. 2.5.1 (HITSP C-32)

Consolidated (C-CDA)

Unstructured documents

Other: Please specify

*NOTE: After being accepted as a Participant, the Applicant/Participant can implement additional Transaction Pattern(s) in accordance with Operating Policy and Procedure #3: Participation Changes, Suspension and Termination (*[www.ehealthexchange.com](http://www.ehealthexchange.com)*).*

Part V: Attestations

As an Applicant to the eHealth Exchange, please attest (by checking each box) that the following statements are true and accurate.

Applicant is a valid business in good standing or a governmental agency, operating in the United States;

Applicant meets all solvency and financial responsibility requirements imposed on the Applicant be applicable statutes and regulatory authorities;

Applicant is an organization or agency that oversees and conducts, on its own behalf and/or on behalf of its Participant Users, electronic transactions or exchanges of health information among groups of persons or organizations;

Applicant has the organizational infrastructure and legal authority (through statutes, regulations, organizational agreements, contracts or binding policies) to comply with the obligations in the DURSA and to require its Participant Users to comply with applicable requirements of the DURSA;

Applicant intends to Transact information with other Participants for a Permitted Purpose;

Applicant has sufficient financial, technical and operational resources to support the testing and operation of transactions among Participants;

In the event that resource issues arise, Applicant agrees to communicate and coordinate with the eHealth Exchange Coordinating Committee regarding Applicant’s situation.

In Applicant is not aware of any information that would preclude the Applicant from fully complying with the provisions of the DURSA;

Along with this Application, Applicant will submit the signed DURSA Joinder Agreement (Attachment 7 of the DURSA, with Attachment 4 – Contacts for Notice), and the eHealth Exchange Participation Agreement;

Applicant will begin exchanging health information with other Participants within one hundred twenty (180) days following the date Applicant is conditionally accepted by the Coordinating Committee as a Participant. If Applicant anticipates not meeting the 180-day deadline, Applicant shall request (in writing) an extension from the Coordinating Committee;

The information contained in this Application for Participation is true and accurate. Applicant will notify the Coordinating Committee if the information contained herein is discovered to be, or later becomes, inaccurate and Applicant will provide additional information as reasonably requested by the Coordinating Committee. (This obligation to submit accurate information continues until such time as the Applicant becomes a Participant, at which time the Applicant/Participant will be bound by the DURSA.)

**[Signature Page Follows]**

***[Signature Page to eHealth Exchange Application]***

|  |  |  |
| --- | --- | --- |
| **For: [Applicant Name]** | |  |
|  |  |  |  |
| Date: |  |  |  |
| Signature: |  |  |  |
| Printed  Name: |  |  |  |
| Title: |  |  |  |

**Attachment 1 - Onboarding Resources and DURSA Guidance**

**Onboarding Resources**

The below resources are available to assist you in completing the application package. These resources can be found on the Onboarding page of the eHealth Exchange website at [www.ehealthexchange.com:](http://www.ehealthexchange.com:)

* eHealth Exchange Participant Testing Program Process provides a step-by-step overview of the onboarding and testing process
* Onboarding Overview – a presentation that provides an overview of the onboarding process
* [DURSA Webinar Presentation & Recorded Audio:](https://ehealthexchange.org/onboarding/dursa/)  This presentation provides a detailed walkthrough of the DURSA including the overall context and a review of the DURSA provisions

**DURSA Flow-Down Provision Guidance**

The DURSA requires that your organization, your users, your participating organizations and your technology partners if there are any, comply with the DURSA Provisions. The following represents additional clarifications to help applicants answer question #8 on the application.

The Coordinating Committee is looking for a 1-2 sentence statement for each provision, which explains how you obligate your participating organizations and/or users who will access your eHealth Exchange connection. The questions below each provision should be used to help you to answer Question #8 on the application.

1. **Users must comply with all applicable law**
   * How does your organization obligate its users (or participants if you are an HIE/HIO) to comply with applicable law?  For example:
     + Does your organization have policies (e.g. Human Resources, etc.) or employment agreements that obligate employees or contract staff to comply with Applicable Law?
     + Do your contracts / arrangements with medical staff obligate them to comply with applicable law?
2. **Users must reasonably cooperate with your organization regarding any issues related to the DURSA**
   * Your legal counsel should review the DURSA carefully to understand your organization’s obligations in the DURSA and to assure you have appropriately implemented the applicable “flow-down” applicable provisions to your users or other participating organizations.   For example:
     + 12.02 must comply with terms of DURSA, including use, confidentiality, privacy and security of Message Content.  Participant shall appropriately discipline users who fail to act accordingly.
     + Cooperate with reporting and responding to DURSA Breaches (which are defined differently than HIPAA breaches)
   * How will you obligate your users to meet specific provisions in the DURSA, such as:  Sections 5.01, 12.02, 13.01, etc.
     + For example, do your policies (e.g. Human Resources, etc.) or employment agreements obligate employees or contract staff to cooperate with you to comply with Applicable Law and your obligations under the DURSA?
     + Do your contracts / arrangements with medical staff obligate them to cooperate with you so that you can satisfy
3. **Only transmit data for permitted purposes defined in the DURSA, which are more narrow than what is permitted in HIPAA**

*(NOTE: We understand that some organizational policy limits use of the system to treatment purposes only, which is consistent with the Permitted Purposes in the DURSA.  Please note this on your application if this is true for your organization)*

* Does your organization have a policy, consistent with the DURSA, to ensure that users will only request data or submit data via the eHealth Exchange connection for only those purposes outlined in the HIPAA Permitted Purposes definition?
* Participants may NOT use eHealth Exchange connectivity for any purpose EXCEPT those specified in the definition of Permitted Purposes in the DURSA.
* The permitted purposes in the DURSA are more stringent than HIPAA, particularly the DURSA definition of TPO:
  + Treatment - Treatment of the individual who is the subject of the Message.  Not for treatment purposes for other patients or for general treatment purposes by the Health Care Provider.
  + Payment activities of a Health Care Provider
    - As it relates to the individual who is the subject of the Message. For example, this could be in response to or to support a claim for reimbursement submitted by a Health Care Provider to a Health Plan.
  + Limited Healthcare Operations
    - Healthcare operations of the Covered Entity submitting the data or when another organization submits the data on another Covered Entity’s behalf.
    - Healthcare operations of a Health Care Provider who receives the message and has an established Treatment relationship with the individual who is the subject of the Message.  This is limited to those Health Care Operations listed in paragraphs (1) or (2) of the definition of Health Care Operations in 45 C.F.R. § 164.501 or health care fraud and abuse detection or compliance of such Health Care Provider
  + Public Health Activities and Reporting
  + Any Purpose to Demonstrate Meaningful Use
  + Uses and Disclosures Pursuant to an Authorization

1. **Only use data received from your Organization or other Exchange Participants in accordance with the terms and conditions of the DURSA**

* The ultimate recipient of records received (i.e. a copy of another Participant’s records), may incorporate that data into its records and retain that information in accordance with Applicable Law and the recipient’s record retention policies and procedures.

1. **Appropriately report Breaches (as defined in the DURSA) within the 1 hour / 24 hour timeframes as specified in the DURSA.**

*(NOTE:  The reportable breaches in the DURSA are different than those that must be reported for HIPAA.   Breaches are defined very narrowly to apply to inappropriate access/use/disclosure as it relates to the transmission of data with other eHealth Exchange Participants). For details, refer to the DURSA definition of Breach.*

* Participants are required to notify the eHealth Exchange Coordinating Committee and other impacted Participants of DURSA Breaches within specific timeframes:
  + Within 1 hour of ***suspected*** Breach, participants are required to notify the CC and other impacted Participants
  + Within 24 hours of ***confirmed*** Breach, notify the CC, take steps to mitigate the Breach, and implement corrective action plans to prevent such Breaches in the future

*NOTE: The difference between the 1 hour and 24 hour notification will depend on how long it takes your organization to complete the analysis required to confirm that there was a breach.  The 24 hour notification begins once this confirmation has been made.*

1. **Refrain from disclosing to anyone, any passwords or other tokens issued to that user/partner by your Organization, as well as the digital certificates issued for the eHealth Exchange.**
   * Participants should have a policy or procedure that requires users/participants to protect any passwords and any other security tokens that grant system access or enable the exchange of data with other eHealth Exchange participants.