

## Operating Policy and Procedure

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|--|-------------------------|--------------------|
| <b>Subject: Participant Opt-out of new data sharing agreements</b> |                         |                    |
| <b>Status: FINAL – Approved by CC</b>                              | <b>Policy #: OPP-10</b> |                    |
| <b>Effective Date: 8/1/2020</b>                                    | <b>Version: 5.0</b>     | <b>Page 1 of 3</b> |

### **I. Purpose**

The DURSA authorizes the eHealth Exchange Coordinating Committee to enter into agreements to broaden access to data to enhance connectivity across platform and networks. See DURSA section 4.03(m).

The purpose of this Operating Policy and Procedure (OPP) is to identify the process by which eHealth Exchange Participants will opt-out of networks with which the eHealth Exchange Coordinating Committee has entered into data sharing agreements pursuant to the authority granted to the Coordinating Committee by the DURSA section 4.03(m).

### **II. Policy**

eHealth Exchange Participants sign the DURSA by which they agree to comply with certain legal, policy and technical requirements that are necessary to support the safe and secure transfer of electronic health data using eHealth Exchange. The Coordinating Committee was created by the DURSA and is granted authority to oversee operations of eHealth Exchange. The DURSA specifically grants to the Coordinating Committee the authority to enter into agreements to broaden access to data to enhance connectivity across platforms and networks. When this occurs, each eHealth Exchange Participant is given the right to opt-out of participating with that data sharing agreement for any reason.

The Coordinating Committee wishes to provide an orderly process for eHealth Exchange Participants to opt-out of a new data sharing agreement into which the Coordinating Committee has entered. This process includes notice to the Participants that a new data sharing agreement may soon be entered into, an opportunity to review the data sharing agreement and any applicable flow-down provisions, and determine whether the Participant is required to opt-out and time to notify the Coordinating Committee if the Participant does opt-out. Prior notification also seeks to ensure that the Coordinating Committee will be fully apprised of any concerns or comments Participants may have prior to entering into a new data sharing arrangement.

For those Participants that do not opt out, they will be subject to the terms of the network agreement that are required to be flowed down to that network's participants. These terms will vary from network to network and will be called different things. For example, in the instance of the Carequality Connected Agreement, these terms are called Carequality Connection Terms. The eHealth Exchange Coordinating Committee must identify the terms that the network requires to be flowed down to eHealth Exchange Participants.

### **III. Procedure**

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In order to become a connected organization through a new Data Sharing Arrangement, the following steps will be taken:

1. eHealth Exchange Support staff, provided by Healthway, Inc. (d.b.a. eHealth Exchange), will notify, in writing, all eHealth Exchange Participants that the Coordinating Committee anticipates entering into a new data sharing agreement as authorized by section 4.03(m) of the DURSA. This notification will include a summary and copy of the new data sharing agreement, and any applicable flow-down terms with which a Participant may be obligated to comply.
2. Each Participant shall have 60 calendar days from the date of the notice to review the summary and the applicable flow-down terms and decide whether the Participant wishes to opt-out. The eHealth Exchange support staff will be available to answer questions about the flow-down terms and may, but is not required to, conduct webinar(s) to review it with Participants.
3. If a Participant does not notify the eHealth Exchange via [administrator@ehealthexchange.com](mailto:administrator@ehealthexchange.com) within 60 days of the notice, that the Participant is opting-out, then the Participant shall be deemed to be participating in the new network.

The eHealth Exchange Executive Director will review any notices filed within the 60-day period and discuss them with the Coordinating Committee and the Participant that submitted the notice in an effort to address the concerns identified.

#### **IV. Definitions**

**DURSA:** Data Use and Reciprocal Support Agreement

**eHealth Exchange:** A network of Participants who share data in accordance with the DURSA

All other capitalized terms, if not defined herein, shall have the same meaning as set forth in the DURSA.

#### **V. References**

“Restatement II of the Data Use and Reciprocal Support Agreement (DURSA)”, Version Date: August 13, 2019

- Section 4.03(m), Grant of Authority
- Section 12.05, Opt-out for new networks

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### **VI. Related Policies and Procedures**

N/A

### **VII. Version History Date**

|   | <b>Date</b> | <b>Comments</b>   |
|---|-------------|---|
| 1 | 3/8/16      | Original Draft  |
| 2 | 7/17/18     | Modified to include the SSA Disability Determination Use Case   |
| 3 | 4/30/19     | Drafted proposed revisions to accommodate Coordinating Committee decisions to join new networks   |
| 4 | 8/13/19     | Clarified the Coordinating Committee should be apprised of Participants' interests before deciding upon entering into new data sharing agreements to encourage a more informed decision-making process. |
| 5 | 2/1/20      | Updated effective date to 2/1/2020 now that amended DURSA is in effect  |
| 6 | 6/2020      | Updated language to reflect newest DURSA amendment changes; Updated formatting for consistency and readability  |