

## Operating Policy and Procedure

<b>Subject: Participation-Changes, Suspension, Termination</b>		
<b>Status: FINAL – Approved by the CC</b>	<b>Policy #: OPP-3</b>	
<b>Effective Date: 8/1/2020</b>	<b>Version: 3.0</b>	<b>Page 1 of 10</b>

### **I. Purpose**

The Coordinating Committee is responsible for developing, implementing and operating the eHealth Exchange. The fulfillment of these responsibilities involves making changes with regard to the Transaction Patterns supported by a Participant as well as suspension and termination of Participants based upon a Participant's request or upon action of the Coordinating Committee.

### **II. Policy**

This Policy outlines a framework for accepting and reviewing requests by Participants to make changes with regard to the Transaction Patterns they support, as well as processes and procedures for suspension and termination of a Participant, whether initiated by the Participant or by the Coordinating Committee.

A. The Coordinating Committee has designated Healtheway, Inc. (d/b/a/ "The eHealth Exchange" and its "eHealth Exchange support staff") to provide operational support to eHealth Exchange Participants and the Coordinating Committee, including, but not limited to the set of responsibilities outlined in OPP #1. In addition, the Coordinating Committee has delegated responsibility to The eHealth Exchange and its eHealth Exchange support staff to take the following actions:

1. Any action necessary to implement a Service Change as outlined in this sub-section and the Procedures Section III.
2. Any actions that are needed to implement the suspension procedures as outlined in this sub-section and the Procedures Section III.
3. Any actions that are needed to implement the termination procedures as outlined in this sub-section and the Procedures Section III.

#### **B. Changes to Transaction Patterns**

A Participant may notify the Coordinating Committee's Designee, Healtheway (d/b/a "The eHealth Exchange Project" and its "eHealth Exchange support staff"), of its plan to add, modify, or terminate a Transaction Pattern ("Service Change"). eHealth Exchange staff will inform the Coordinating Committee of the request for a Service Change and the Coordinating Committee will strive to comply with all Service Change requests.

#### **C. Suspension**

##### ***1. Voluntarily by the Participant.***

Pursuant to DURSA Section 19.02(a), a Participant may voluntarily suspend its participation in the eHealth Exchange.

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2. *With Cause by the Coordinating Committee.*

Pursuant to DURSA Section 19.03, the Coordinating Committee may suspend a Participant from participating in the eHealth Exchange.

3. *Reinstatement by the Coordinating Committee.*

Pursuant to DURSA Section 19.03, after a period of suspension and upon successful completion of the Participant's corrective action plan or other measures directed by the Coordinating Committee, the Coordinating Committee shall direct eHealth Exchange support staff to reinstate a Participant's Digital Credentials, if applicable, and provide notice to all Participants of such reinstatement.

### D. Termination

1. *Voluntarily by the Participant.*

Pursuant to DURSA Section 19.02(b), a Participant may voluntarily terminate its participation in the eHealth Exchange.

2. *With Cause by the Coordinating Committee.*

Pursuant to DURSA Section 19.04, the Coordinating Committee may terminate a Participant from participating in the eHealth Exchange.

## III. Procedure

### A. Service Changes

1. All requests for Service Changes by a Participant shall be directed to the Coordinating Committee or its designee in writing. Upon receipt of a Service Change request from a Participant, the Coordinating Committee or its designee shall review and process the request. eHealth Exchange support staff shall communicate all approved Service Changes to the Coordinating Committee and to other Participants, as necessary. eHealth Exchange support staff shall take all appropriate technical actions necessary to carry out the Service Change. A Service Change may include support for new covered entities under an existing Participant, Participant support for new use cases, Participant support for opt in/out of networks,
2. Where a Service Change request involves the addition or modification of a Transaction Pattern, the Participant shall complete all technical testing in accordance with the Validation Plan to assess compliance of the new or modified Transaction Pattern with the applicable Performance and Service Specifications.

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3. If the Participant has successfully completed all technical testing in accordance with the Validation Plan, the following activities will occur:
  - eHealth Exchange support staff shall coordinate with the Participant regarding the specific date on which the Participant's new or modified Transaction Pattern will be operational, in production and ready to exchange information with other Participants in production.
  - The Participant shall provide eHealth Exchange support staff the required information to update the Participant's information in the eHealth Exchange Directory. eHealth Exchange support staff will confirm that the information supplied is accurate by testing the information provided.
  - If the information supplied is accurate, eHealth Exchange support staff shall update the eHealth Exchange Directory on the specific date agreed to by the Participant.
  - eHealth Exchange support staff shall notify other Participants, as necessary, with the Participant's new or modified service.
  
4. Where the Service Change request involves the termination of the Participant's ability to respond to Messages that seek Message Content for Treatment, eHealth Exchange support staff shall take all appropriate technical actions to ensure that the Participant cannot request Message Content for Treatment.

### B. Suspension

#### 1. *Voluntarily by the Participant.*

##### **Service Level Interruptions**

Participants will experience temporary service level interruptions from time to time. These service level interruptions may be planned or unplanned. A service level interruption will result in a Participant having to temporarily cease exchanging Message Content with all other Participants through the eHealth Exchange. To ensure that all Participants are aware of a service level interruption, the Participant experiencing the service level interruption will send a written notice to eHealth Exchange support staff of the interruption prior to the interruption, if planned, or as soon as reasonably practicable after the

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interruption begins if unplanned. eHealth Exchange support staff will notify all other Participants and Members of the Coordinating Committee of the interruption, as necessary. Since a service level interruption does not involve the suspension of a Participant's Digital Credentials, the Participant will be responsible for taking all technical actions necessary to carry out a service level interruption. During a service level interruption, the Participant will continue to be responsible for complying with the terms of the DURSA.

### **Voluntary Suspension**

If, at any point, a Participant decides that it requires a temporary suspension from participation and its responsibility for complying with the terms of the DURSA, it shall send a written notice to eHealth Exchange. The Participant must give notice of its need for a temporary voluntary suspension at least twenty-four (24) hours prior to commencing its voluntary suspension.<sup>1</sup> The notice will specify the reason for, the commencement date of, and the duration of the voluntary suspension. Upon receipt of the notice of voluntary suspension, eHealth Exchange support staff will forward the notice to Members of the Coordinating Committee.

If the voluntary suspension will last fewer than ten (10) consecutive days and will not cause the Participant to exceed forty (40) days of voluntary suspension in the twelve (12) months preceding the start of the planned suspension, the Coordinating Committee or its designee will assume that it is for a valid purpose. If the suspension is approved, eHealth Exchange support staff will take appropriate technical actions necessary to carry out the voluntary suspension. eHealth Exchange support staff will also notify other Participants of such voluntary suspension, as necessary.

If the duration of the voluntary suspension will exceed ten (10) consecutive days or cause the Participant to exceed forty (40) days of voluntary suspension in the twelve (12) months preceding the start of the planned suspension, the Coordinating Committee or its designee will review and decide whether to approve the voluntary suspension. Upon receipt of a notice of such a voluntary suspension, the Chair may call a special meeting of the Coordinating Committee to discuss, evaluate and make a determination on the suspension request. The Coordinating Committee or its designee shall determine whether the request is for a valid purpose and whether the duration is acceptable. Once a determination has been made, eHealth Exchange support staff will communicate the determination to the Participant in writing with an explanation of the decision. If the suspension is approved, eHealth Exchange support staff shall notify other Participants of

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<sup>1</sup> A Participant may choose to undergo a service level interruption during this 24-hour period.

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the suspension, as necessary, and take all appropriate technical actions necessary to carry out the voluntary suspension.

If the Coordinating Committee or its designee determines that the request for voluntary suspension is not for a valid purpose or that the duration of the voluntary suspension is unacceptable, the Coordinating Committee or its designee will meet with the requesting Participant to discuss the Coordinating Committee's determination. The Coordinating Committee or its designee, and the Participant will work together in good faith to reach an acceptable resolution. If they cannot reach a resolution, they will submit the Dispute to the Dispute Resolution Process.

### 2. *With Cause by the Coordinating Committee.*

Upon receipt of a complaint, report or other information that causes the Coordinating Committee to question whether a Participant's acts or omissions are creating an immediate threat or will cause irreparable harm to another party, the DURSA gives the Coordinating Committee the legal authority to investigate the complaint, report or other information and determine whether such Participant should be suspended. Any suspensions imposed under this Policy shall remain in effect until the Participant is reinstated or terminated in accordance with the DURSA and this Policy.

The Coordinating Committee hereby delegates authority to the Chair where a complaint, report or other information received by the Chair indicates that a suspension must be implemented immediately and that, in the judgment of the Chair, it is not practical to delay the suspension while the Committee is convened. If the Chair decides, based on the available information, that immediate suspension is required because a Participant's acts or omissions are creating an immediate threat or will cause irreparable harm to another party if a suspension is not implemented, the Chair will immediately do the following: i) request that eHealth Exchange support staff take all appropriate technical actions necessary to carry out the suspension which may include, but is not limited to, suspension of the Participant's Digital Credentials; ii) call a special meeting of the Coordinating Committee to evaluate the suspension; and iii) notify the suspended Participant of the suspension in writing with an explanation of the reasons for suspension. The Coordinating Committee shall meet as soon as practicable, but no later than the next day, to evaluate the suspension. If the Coordinating Committee cannot establish a quorum in order to hold an official meeting by the next day, it shall still meet with as many members as are available and take provisional action without a quorum in accordance with its general operating policy and procedure. The suspension will remain in effect until the Coordinating Committee meets to evaluate the suspension and either affirms, rejects or modifies the

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suspension initiated by the Chair. If the Coordinating Committee affirms or modifies the suspension, it will direct eHealth Exchange support staff to notify all other Participants of the suspension in writing.

If the Chair determines that immediate suspension is not required, the Coordinating Committee may initiate an investigation of the complaint, report or other information. The Coordinating Committee will direct eHealth Exchange support staff to immediately notify the Participant(s) in question of the investigation. If, through the investigation, the Coordinating Committee determines that a Participant is (i) creating an immediate threat or (ii) will cause irreparable harm to another party including, but not limited to, another Participant, a Participant User, the integrity or operation of the Performance and Service Specifications or an individual whose Message Content is transacted through the eHealth Exchange, the Coordinating Committee may summarily suspend the Participant and implement the process specified below. Such suspension shall be tailored to address the threat posed by the Participant.

The Coordinating Committee will immediately direct eHealth Exchange support staff to take appropriate technical actions necessary to carry out the suspension, which may include but is not limited to, suspension of the Participant's Digital Credentials. As soon as reasonably practicable after suspending a Participant, but in no case longer than twelve (12) hours, eHealth Exchange support staff will provide the suspended Participant with a written summary of the reasons for the suspension and notify all other Participants of the suspension.

The suspended Participant will provide the Coordinating Committee with a written plan of correction or an objection to the suspension within three (3) business days of its receipt of the written summary of the suspension, or if such response is not reasonably feasible within the three (3) day timeframe, then at the earliest practicable time.

[Note that Healthway, Inc. \(dba "The eHealth Exchange"\) separately maintains authority to suspend Participants' digital certificates \(not their network Participation\) for breach of the Participation Agreement \(including non-payment\), and for failure to enter into a Participation Agreement.](#)

### **Objections and Plan of Correction**

Any objection by the Participant shall be specified in writing stating the reason why the suspension is inappropriate. A plan of correction shall be included and shall describe the steps that the Participant is taking to address, mitigate and remediate the issue(s) that caused the Coordinating Committee to determine that a summary suspension was

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appropriate and include a timeframe for such actions. The Coordinating Committee will review a suspended Participant's plan of correction or objection within five (5) business days of receiving same from the Participant; determine whether to accept or reject the objection or the plan of correction or affirm the suspension; and communicate such decision to the suspended Participant in writing with an explanation of its decision.

If the Coordinating Committee rejects the plan of correction, it will work in good faith with the suspended Participant to develop a mutually acceptable plan of correction. If the Coordinating Committee and the suspended Participant cannot reach agreement on the content of the plan of correction or on the reasons supporting the suspension itself, the Coordinating Committee may submit the Dispute to the Dispute Resolution Process or terminate the Participant.

### C. Reinstatement

#### 1. *Post-Participant Voluntary Suspension*

The Participant's request for a voluntary suspension will state the commencement date and the duration of the suspension. The Participant will have the ability to seek an extension of its voluntary suspension should one be necessary. If the extension will cause the suspension to exceed ten (10) consecutive days or cause the Participant to exceed forty (40) days of voluntary suspension in the twelve (12) months preceding the start of the planned suspension, the Participant shall provide additional justification for the extension request. The Coordinating Committee or its designee, will review, evaluate and make a written determination on the extension request and provide it to the Participant.

Either on the date indicated by the Participant in the voluntary suspension or extension request or at an earlier time if requested by the Participant, eHealth Exchange support staff will take appropriate technical actions necessary to reinstate the Participant's ability to participate in the eHealth Exchange.

#### 2. *Post-Suspension with Cause by the Coordinating Committee.*

Where a Participant's ability to participate in the eHealth Exchange has been suspended by the Coordinating Committee with cause, the Participant shall provide evidence to the Coordinating Committee of the Participant's fulfillment of the obligations of its plan of correction. The Coordinating Committee will review such evidence within three (3) business days of receiving it from the Participant.

If the Coordinating Committee is not satisfied that the Participant has met its obligations under its plan of correction, the Coordinating Committee will inform the Participant of the

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deficiencies. The Participant may submit additional evidence that addresses such deficiencies, or the Participant may terminate its participation in eHealth Exchange.

When the Coordinating Committee is satisfied that the evidence presented indicates that the Participant has fulfilled its obligations under the plan of correction, eHealth Exchange support staff will take appropriate technical actions necessary to reinstate the Participant's ability to participate in eHealth Exchange.

### D. Termination

#### 1. *Voluntarily by the Participant.*

All requests for termination by a Participant shall be directed to eHealth Exchange support staff in writing at least five (5) business days prior to the requested termination date. eHealth Exchange support staff will notify the Coordinating Committee Chair of the request and the Chair shall direct eHealth Exchange support staff to take appropriate technical actions necessary to carry out the termination including, but not limited to, termination of the Participant's Digital Credentials. The Chair will direct eHealth Exchange support staff to notify other Participants of the termination, as necessary and remove the Participant from the registry and published lists of eHealth Exchange Participants.

#### 2. *With Cause by the Coordinating Committee.*

a. *Immediate Threat Upon Suspension Investigation.* If, after further investigation following its suspension for cause of a Participant in accordance with Section B.2 of this Policy, the Coordinating Committee believes that there is a substantial likelihood that the Participant's acts or omissions will continue to create an immediate threat or will cause irreparable harm to another party, the Coordinating Committee may terminate the Participant. In the event the Participant is terminated, the Coordinating Committee shall direct eHealth Exchange support staff to notify the Participant of the termination along with the Participant's right to appeal the determination through the Dispute Resolution Process (see DURSA Section 21).

b. *Complaint of Material Default.* If based on a complaint, report, or other information the Coordinating Committee finds that a Participant is in material default of the performance of a duty or obligation imposed on the Participant by the DURSA, it shall direct eHealth Exchange support staff to notify the Participant, in writing, with a written summary of the basis of the default and the actions required to cure the default ("Cure Notice"). Actions to cure the default must be taken with thirty (30) calendar days

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following Participant's receipt of the Cure Notice or such other time period as agreed upon by the Coordinating Committee and the Participant (the "Cure Period").

Material defaults include, but are not limited to, failure to comply with:

- (i) Any privacy, security or confidentiality obligations in the DURSA;
- (ii) Any expectations or duties of a Participant, as provided for in the DURSA; and
- (iii) Any breach of the representations and warranties in the DURSA.

During the Cure Period, the Coordinating Committee may suspend the Participant in accordance with Section B.2 of this Policy or continue any existing suspension. The Coordinating Committee will consider all relevant information submitted by the Participant and actions taken by the Participant during the Cure Period in response to the Cure Notice. If the Participant does not substantially cure its material default within the Cure Period, the Coordinating Committee may terminate the Participant. In the event that the Participant is terminated, the Coordinating Committee shall direct eHealth Exchange support staff to (1) issue a final written notice of termination; (2) take appropriate technical actions necessary to carry out the termination including, but not limited to, termination of the Participant's Digital Credentials; and (3) notify all other Participants of the termination.

#### **IV. Definitions**

**eHealth Exchange Directory:** shall mean a directory of Participants that is used by Participants to find and Transact Message Content among Participants.

**Service Change:** shall mean changes in regard to Transaction Patterns and suspensions and terminations of a Participant.

**Transaction Pattern:** shall mean a type of information exchange service(s) enabled by the Specifications. The Validation Plan will identify the Transaction Pattern(s) and the Specifications required to implement each Transaction Pattern. The Transaction Patterns may be amended from time to time through amendment of the Specifications and the Operating Policies and Procedures.

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

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### V. References

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

- Section 19, Term, Suspension and Termination
- Section 20, Cooperation

### VI. Related Policies and Procedures

- OPP 10, New Networks

### VII. Version History

	<b>Date</b>	<b>Comment</b>
1	7/20/15	Revisions made to reflect Healthway name change to The eHealth Exchange
2	6/15/17	Updated policies to delegate responsibility to Healthway d/b/a The eHealth Exchange and eHealth Exchange staff to review and approve service change, voluntary suspension, and voluntary termination requests.
3	6/2020	Updated language to reflect newest DURSA amendment changes; Updated formatting for consistency and readability