

**APPENDIX A:
HIO POLICY TEMPLATE**

If you would like to provide information about your HIO policies to the extent that they have disclosure requirements greater than that of your state law, please follow the directions below.

Definitions

- **Consent:** Means permission, authorization, or consent to disclose the PHI.
- **Health information organization (HIO):** Has the definition given in the ONC-funded project completed by the National Alliance for Health Information Technology (NAHIT) in May 2008. Based on this definition, a health information organization is an organization that oversees and governs the exchange of health-related information among organizations according to nationally recognized standards.
- **Protected health information or PHI:** Has the same definition as in HIPAA.
- **State law:** Refers to state laws, regulations, or administrative rules. It can also include Attorney General opinions and case law to the extent that they interpret state law, regulation, or administrative rules, if already known.
- **Treatment:** Has the same definition as in HIPAA.

Scope

HIO Policy: When completing this template, be sure to limit your responses to how your HIO's policy differs from state law (that is, how HIO policy provides additional limitations/restrictions on disclosure for treatment of a patient than state law does).

Treatment: This template for HIO Policy is focused on the use of PHI data held by or accessed by the HIO for disclosure to health care providers for treatment of the patient only. Thus, disclosure for other purposes is out of scope, including but not limited to:

- a. Use of PHI for public health purposes.
- b. Use of PHI for quality or other health care operations (as defined in HIPAA).
- c. Use of PHI for marketing.
- d. Use of PHI in court proceedings (e.g., state doctor/patient privilege, evidence code).
- e. Use of PHI for law enforcement.

Assumptions

In the scenario, the legitimacy of the hospital, clinic, and/or provider has been confirmed and authenticated. This scenario is for treatment of the patient. Assume it has already been established that the health care provider in the scenario has a treatment relationship with the patient.

Disclaimer

DISCLAIMER: The contents of this document is not intended to be a legal opinion or contain legal advice, or to be an official representation of HIO policy, data sharing agreements, or permissions from the HIO's participants.

Directions

- A. Answer the questions below with respect to your HIO.
- B. These questions are intended to capture the key difference between your state's law and your HIO's policies regarding the disclosure of the PHI to health care providers for treatment purposes, regardless of treatment situation or setting. Please consider both emergency and nonemergency treatment situations when completing these questions.
- C. Use as much room as you need.
- D. Note that a state may complete more than one HIO Policy template, if more than one HIO exists and wishes to participate.

General Questions:

1. What is the name and address of the HIO?

Answer:

2. Please provide contact info for the HIO and who to ask if there are questions on the responses to this template.

Answer:

3. What is the geographic coverage of the HIO currently (e.g., statewide, metropolitan area, cross-border region)?

Answer:

4. Does the HIO have participants contributing data (or making data available) from more than one state?

Answer:

5. Does the HIO make PHI available outside its state?

Answer:

6. Who is participating in the HIO? Please provide names and type of entity contributing data. Please also indicate if the number and or types of Participants is intended to grow or change in the future, and if so, how.

Answer:

7. What stage is the HIO in? Please select from the seven stages articulated by the eHealth Initiative (eHI)¹:

HIO Stage 1	Recognition of the need for health information exchange among multiple stakeholders in your state, region, or community. (Public declaration by a coalition or political leader.)
Stage 2	Getting organized; defining shared vision, goals, and objectives; identifying funding sources, setting up legal and governance structures. (Multiple, inclusive meetings to address needs and frameworks.)
Stage 3	Transferring vision, goals and objectives to tactics and business plan; defining your needs and requirements; securing funding. (Funded organizational efforts under sponsorship.)
Stage 4	Well under way with implementation -technical, financial, and legal. (Pilot project or implementation with multiyear budget identified and tagged for a specific need.)
Stage 5	Fully operational health information organization; transmitting data that is being used by health care stakeholders.

¹ Citation to eHealth Initiative's seven stages used to categorize HIOs stage of development can be found at: <http://www.ehealthinitiative.org/2007HIESurvey/stateOfTheField.msp>.

Stage 6 Fully operational health information organization; transmitting data that is being used by health care stakeholders and have a sustainable business model.

Stage 7 Demonstration of expansion of organization to encompass a broader coalition of stakeholders than present in the initial operational model.

Answer:

8. Is the HIO sharing live PHI data (as opposed to test data) for treatment purposes yet?

Answer:

9. If the HIO is sharing live PHI for treatment purposes, what categories of data are being shared (e.g., medication history, labs)?

Answer:

10. If the HIO is sharing live PHI for treatment purposes, is any data filtered to avoid potential consent requirements under state and/or federal law? If so, please describe process.

Answer:

11. If the HIO is sharing live PHI for treatment purposes, how many data sources are participating (e.g., 3 hospitals, 2 private labs, 1 physician office EMR)? (Note the question is who is CONTRIBUTING data, not what people are accessing the PHI.)

Answer:

12. Please provide the website address where the HIO's policies can be found, if available.

Answer:

PHI Disclosure Policy Questions

13. Does the HIO have a formal policy that is stricter than state law regarding disclosure of PHI to health care providers for treatment of a patient (e.g., patient consent requirements, opt-in, opt-out)? If so, please summarize the key points, and how it differs from state law, with particular attention to the purposes and uses of data that are permitted by such consent.

Answer:

14. If the HIO has a policy that requires consent, can the patient choose to select portions of his/her medical information to share and what to withhold or is it structured as an all-in or all-out approach to sharing the patient's PHI? Please summarize.

Answer:

15. Does the HIO's consent policy differentiate between disclosure of PHI in emergency vs. nonemergency treatment situations (once again, we are only seeking a response where the HIO's policy goes beyond state law)? If so, please summarize and provide relevant definition/description of what constitutes an emergency that would trigger this different requirement.

Answer:

16. Please describe other factors of a treatment scenario that impact the disclosure requirements of the HIO (e.g., push vs. pull of the data, centralized vs. decentralized model)?

Answer:

17. If the HIO requires consent, is there one authorization form for the consent that is used by all participants or does each participant have its own consent form that references the HIO? Please attach any standard consent form, if the HIO has one that is used.

Answer:

a. In the required consent form, is there language enabling the consent to apply to the HIO's redisclosure of the participant's information? If so, please describe.

Answer:

18. Does the consent obtained allow the disclosure of PHI only at the time the consent is obtained or does it allow for future disclosures? If it allows for future disclosures, please describe process.

Answer:

19. How the consent process is implemented (e.g., who will obtain, how (electronic vs. manual) where is the consent stored or referenced, etc.)?

Answer:

20. If the HIO has a policy that requires consent, is there an explicit revocation policy? If yes, please describe any revocation policy.

Answer:

a. If the HIO has a consent revocation policy, please describe the disposition of any data currently held by the HIO at the time of revocation, i.e., is the data retained by the HIO?

Answer:

b. Are there additional notable stipulations of HIO consent revocation? If yes, please describe.

Answer: