

<h1>P3N Policy #5</h1> <h2>Privacy Policy</h2>	
<h3>PA eHealth Partnership Program</h3>	
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<b>Related Documents:</b>	-Terms and Definitions -Pennsylvania eHealth Partnership Program Uniform Participant Agreement v.4c

1. **PURPOSE.** This document establishes a privacy policy that considers patients’ rights while balancing the need for Health Care Providers to have clinical information at the time and place of care that enables them to make informed decisions and provide better quality health care services.
2. **SCOPE.** This document applies to all Certified Participants (CPs) in the Pennsylvania Patient & Provider Network (P3N).
  - 2.1. This policy is intended to be consistent with and does not replace or supersede any federal regulations or laws (such as Health Insurance Portability and Accountability Act (HIPAA) and Health Information Technology for Economic and Clinical Health Act (HITECH)) or State privacy and security laws and regulations.
  - 2.2. Nothing in this policy shall be construed to prohibit a Health Care Provider from obtaining and storing a patient’s Protected Health Information (PHI) in electronic form. Furthermore, such PHI may be directly exchanged between Health Care Providers and Payers in accordance with federal and state law.
  - 2.3. Nothing in this policy is intended to require an organization to respond to all queries if such queries violate that organization’s policies for data sharing. (For example, if an HIO has policies only allowing responses to queries for treatment, they would not be required to respond to other types of queries).
  - 2.4. This policy is also not intended to restrict CPs or its Member Organizations (MOs) from participating in, or exchanging PHI with or through, other entities such as the Sequoia Project eHealth Exchange.
3. **OBJECTIVES.** The objective of this policy is to:
  - 3.1. Acknowledge an individual’s right to access and obtain their PHI, and request corrections or amendments to that Data.

- 3.2. Define the limitations on the collection, Use and Disclosure of PHI by the P3N, CPs and Authorized Users.
- 3.3. Enable an individual to make informed decisions about the collection, Use and Disclosure of their PHI, and the right to request Audit reports on such Access.
- 3.4. Establish the responsibility of CPs to provide notification to individuals with regard to the collection, Use and Disclosure of their PHI.
- 3.5. Define the requirements for handling of Restricted Self-Pay PHI.

#### 4. **POLICY**

##### 4.1. **Limitations on the Collection, Use and Disclosure of PHI**

- 4.1.1. Authorized Users' Access to their own personal PHI through the P3N shall be the responsibility of the CPs and/or its MOs, as applicable.
- 4.1.2. CPs and their MOs must have policies to address and take action (consistent with applicable laws) when indications of potential misconduct are identified. Authorized Users who violate patient privacy are also subject to consequences ranging from immediate termination of Access to the P3N up to and including legal action in accordance with all applicable federal and state laws.

##### 4.2. **Patient Notification**

- 4.2.1. CPs shall implement reasonable procedures to inform patients of their rights regarding their choice of whether or not to participate in P3N. This may be accomplished either directly by the CP, or CPs may require that their MOs provide individuals with such information.
- 4.2.2. The Pennsylvania Department of Human Services eHealth Partnership Program (PA eHealth) will make materials available to the CPs and the CPs will distribute the materials to its MOs as appropriate. CPs shall make available to their MOs tools necessary to respond to patient inquiries about the P3N (e.g., website links, brochures, answers to frequently asked questions, talking points, and the standard form for Opt-Out requests). PA eHealth will likewise make such information publicly available.

##### 4.3. **Patient Consent Management**

- 4.3.1. CPs shall consider the patients registered in its network opted-in to the statewide electronic sharing of their PHI unless the P3N's consent registry has a record of the patient's opt-out status.
- 4.3.2. Any exchange of patient information through the P3N between separate CPs must be preceded by a check of the P3N's consent status.
- 4.3.3. CPs may continue to electronically collect and store any patient's PHI obtained by it or its MOs regardless of that patient's consent status.

- 4.3.4. CPs may continue to update the P3N’s document registry and applicable repositories regardless of a patient’s consent status as applicable.
- 4.3.5. If a CP or its MOs perform P3N opt-out or opt-back-in transactions, then they shall file in the patient’s record, either in paper or digital format, the consent decision form completed and signed by the patient or patient’s legal representative who is requesting the transaction, before uploading the form and changing the consent indicator.
- 4.3.6. CPs shall advise their MOs of the consent management requirements hereunder.
- 4.3.7. If a CP disconnects from the P3N, demographic data and consent forms of opted out patients must remain, otherwise those patients would effectively be opted back in.
- 4.3.8. If a CP or MO forwards an Opt-Out or Opt-Back-In form to PA eHealth for PA eHealth to perform the opt-out or opt-back-in, it must be forwarded within five business days of receipt of the form.

#### 4.4. **Super Protected Data (SPD)**

- 4.4.1. SPD may be exchanged through the P3N at the discretion of the CPs and their MOs, in accordance with all applicable federal and state laws, and at the discretion of patients, in accordance with all required additional consents.

#### 4.5. **Restricted Self-Pay PHI**

- 4.5.1. Under 45 CFR 164.522 (a)(1) an individual has the right to request providers to restrict certain Uses and Disclosures of Protected Health Information (PHI).
  - 4.5.2. As permitted under 45 CFR 164.522 (a) (1) (ii), providers are not required to agree to such requests for such restrictions, except as follows:
    - 4.5.2.1. Except as otherwise required by law, the Disclosure is to a Health Plan for purposes of carrying out Payment or Health Care Operations; **and**
    - 4.5.2.2. The PHI pertains solely to a health care item or service for which the health care provider involved has been paid out-of-pocket and in full by the individual, or a person other than the health plan on behalf of the individuals (hereinafter, referred to as “**Restricted PHI**”)
- [Source: 45 CFR 164.522(a)(1)(v)(A) & (B) (the “HIPAA Privacy Rule”); American Recovery and Reinvestment Act of 2009, Section 13405(a)]
- 4.5.3. Individuals who wish to restrict certain Uses and Disclosures of Restricted PHI based upon Section 4.1.2.2 above should be permitted to exercise this right by request at the time of scheduling or at an appointment with their

health care provider, or otherwise in accordance with the applicable health care provider's HIPAA Notice of Privacy Practices.

- 4.5.4. CPs shall not exchange or disclose Restricted PHI to P3N, including preventing all messages containing Restricted PHI from passing through the P3N.