To: Health Current Participants  
From: Melissa Kotrys, CEO, Health Current  
Re: Name Change, Permitted Use Policy & Notice of Health Information Practices  
Date: May 15, 2017

This memo serves as an official notice to all Health Current Participants (formerly referred to as Network Participants), pursuant to the Participation Agreement between your organization and Health Current, formerly Arizona Health-e Connection (AzHeC).

First, we are pleased to announce that, effective April 17, 2017, AzHeC is now Health Current. To learn more about the changes, please visit our website at www.healthcurrent.org. Please note that while our name has changed, we are the same organization, and the terms of your Participation Agreement with Health Current remain unchanged.

Due to the tremendous growth in HIE interest and use, there has been increased interest among Participants to amend the definition of “Permitted Use” – a defined term in the Participation Agreement that refers to how Health Current Participants may use information from the HIE.

Following consideration by Health Current Participants and review by legal counsel, the Health Current Board of Directors approved changes to Permitted Use on January 24, 2017. The new Health Current Permitted Use Policy, attached to this memo, details these changes. The new Health Current Permitted Use Policy will go into effect on August 1, 2017.

The changes to the Permitted Use Policy necessitate changes to the Notice of Health Information Practices (“Notice”), to ensure that patients are appropriately informed of how their information may be used through the HIE. The changes made to the Notice are considered material; as such, the Arizona HIO Statute (referenced below) states that healthcare providers who are actively participating with the HIE must distribute the new Notice to patients at the next point of contact:

“If there is a material change to a health information organization's notice of health information practices, a health care provider must redistribute the notice of health information practices at the next point of contact with the patient or in the same manner and within the same time period as is required by 45 Code of Federal Regulations section 164.528 in relation to the health care provider's notice of privacy practices, whichever comes first.” (Ariz. Rev. Stat. § 36-3804(E))

Please note that the requirement to redistribute the Notice to patients only applies to Health Current Participants who are currently sending Data to or receiving Data from the HIE. Other Health Current Participants that are not healthcare providers or are not currently sending Data to or receiving Data from the HIE are not affected by this statutory requirement.
The revised Notice is attached to this memorandum and also available on the Health Current website at [www.healthcurrent.org/hie/patient-rights-process](http://www.healthcurrent.org/hie/patient-rights-process). To ensure that Health Current Participants have sufficient time to implement the new Notice, the new Permitted Use Policy will not go into effect until August 1, 2017. This means that your organization has until this date to implement the new Notice.

Please note: If your organization is a healthcare provider that is either sending Data to or receiving Data from Health Current, you may implement the new Notice immediately, but you must implement the new Notice by August 1, 2017.

In addition to updating the Notice, we have updated other documents used in the Patient Rights Process. This includes the Opt Out Form, the Opt Back In Form and the Health Information Request Form (formerly called the Request for Information Form). The changes to these documents include the new Health Current name and brand, as well as consistent terminology and references. We request that affected Participants implement these new forms when implementing the new Notice. These forms and the full Patient Rights Process Toolkit can be found on our website at [www.healthcurrent.org/hie/patient-rights-process](http://www.healthcurrent.org/hie/patient-rights-process).

We understand that requiring affected Health Current Participants to adopt a new Notice and related documents will entail changes to your administrative processes. Based on Participant feedback, we believe the 11-week implementation period before the new Permitted Use Policy and new Notice take effect will offer Health Current Participants a reasonable period of time to implement the new documents. Further, we have purposefully crafted the language in the new Notice such that future changes to the Permitted Use Policy will not require redistribution of the Notice to patients.

We have scheduled a webinar for Thursday, June 1\(^{st}\) at 12 noon to review these changes with Participants and to address any questions. To register, visit [www.healthcurrent.org/news-events/events](http://www.healthcurrent.org/news-events/events). If you have any questions that require immediate feedback, please contact your Health Current account manager or email hiesupport@healthcurrent.org. Additionally, you are welcome to contact me directly at melissa.kotrys@healthcurrent.org or (602) 688-7201.

As always, we appreciate your participation with Health Current as we continue to support improved health care delivery through more complete health information.

Attachments:
- Health Current Permitted Use Policy
- Health Current Notice of Health Information Practices
Health Current
Permitted Use Policy

Effective Date: August 1, 2017

I. Purpose

This Policy describes the specific purposes for accessing or receiving Data from Health Current (formerly Arizona Health-e Connection – AzHeC), Arizona’s health information exchange (HIE), which constitute “Permitted Use” of the Data. The Health Current Participation Agreement defines “Permitted Use” to include treatment, care coordination, case or care management, transition of care planning, and other purposes approved by the Health Current Board of Directors that are permitted by Applicable Law. All approved purposes are set out in the use cases in this Policy, as may be amended from time to time.

II. Definitions

Unless otherwise defined in this Policy, all capitalized terms in this Policy will have the same meaning as provided under HIPAA or in the Health Current Participation Agreement, both as amended from time to time.

Applicable Law means federal, state and local statutes and regulations that are applicable to Participants in Health Current, or those applicable to Health Current.

Authorized Recipient(s) means a person or entity that has a HIPAA Authorization to access Data of the individual who is the subject of the HIPAA Authorization.

Business Associate means a person or entity that has signed a HIPAA Business Associate Agreement with a Participant, and who are accessing Data through Health Current on behalf of the Participant.

Data means any information transmitted to Health Current by Data Suppliers, including but not limited to Protected Health Information (“PHI”).

Data Supplier means an entity that makes Data available for access through Health Current and has entered into a Participation Agreement.

De-identified Data means Data that complies with the HIPAA de-identification standards at 45 C.F.R. § 164.514.
Healthcare Provider includes hospitals, physicians and physician practices, behavioral health clinics, clinical laboratories, nursing homes, ambulatory surgical centers, home health agencies, hospice programs, outpatient rehabilitation facilities, imaging facilities, and pharmacies. Health Current may determine that other types of entities or persons meet the definition of Healthcare Provider.¹

Health Plan includes health insurance companies regulated by the Department of Insurance, health maintenance organizations (HMOs), Medicaid (AHCCCS) plans, and group health plans that are offered to individuals through their employers. Health Current may determine that other types of entities meet the definition of Health Plan.²

HIPAA means the Health Insurance Portability and Accountability Act, the HITECH Act, and their implementing regulations, all as amended from time to time.

HIPAA Authorization means a form that meets the requirements of a valid authorization set forth in the HIPAA regulations at 45 C.F.R. 164.508.

Part 2 Consent Form means a consent form that is valid under the federal substance abuse treatment regulations at 42 C.F.R. Part 2.

Part 2 Data means information protected by the federal substance abuse treatment regulations at 42 C.F.R. Part 2.

Participant means a person or a legal entity that has signed a Health Current Participation Agreement.

Permitted Use includes the use cases as set forth below. Any such Permitted Use is subject, however, to an individual’s right under Applicable Law to opt out of permitting access to his/her Data.

Population Health means population-based activities relating to improving health or reducing healthcare costs, including (but not limited to) defining a population; identifying care gaps; stratifying risks; engaging patients; managing care; and measuring outcomes.³³

Treatment means the provision, coordination, or management of healthcare and related services by one or more healthcare providers, including the coordination or management of healthcare by a healthcare provider with a third party; consultation between healthcare providers relating to a patient; or the referral of a patient for healthcare from one healthcare provider to another.⁴

III. Healthcare Provider Use Cases

This section outlines the permissible purposes for access to Data by Healthcare Providers who are Participants in Health Current, or by Business Associates on behalf of such Healthcare Providers, as permitted by Applicable Law.
A. Treatment, Care Coordination, Care or Case Management and Transition of Care Planning

Permitted Use: Healthcare Providers that are Participants, or Business Associates on behalf of such Healthcare Providers, may access Data for Treatment, care coordination, care or case management and transition of care planning purposes.

Individuals for Whom Data May Be Accessed: Access is permitted for Data of individuals who are current patients of the Healthcare Provider, or with whom the Healthcare Provider is expected to establish a treatment relationship. For example, a Healthcare Provider may access Data for an individual who is scheduled for an upcoming appointment or for an individual who has been assigned to the Healthcare Provider by a Health Plan. Access is not permitted for Data of individuals who have opted out.

Time Period and Types of Data That May Be Accessed: Access is permitted for Data generated during any time period that is relevant to the specific Treatment, care coordination, care or case management or transition of care planning activities.

Special Restrictions on Part 2 Data:

- Healthcare Providers may access Part 2 Data for emergency treatment purposes if the Healthcare Provider completes an electronic attestation through Health Current affirming that the access is for emergency treatment.

- Healthcare Providers may access Part 2 Data for non-emergency treatment purposes only if the individual or the individual’s healthcare decision maker has signed a Part 2 Consent Form and the Healthcare Provider follows the Health Current policies related to documenting that consent.

B. Population Health

Permitted Use: Healthcare Providers that are Participants, or Business Associates on behalf of such Healthcare Providers, may access Data for Population Health purposes.

Individuals for Whom Data May Be Accessed: Access is permitted for Data of individuals who are current patients of the Healthcare Provider. Data about individuals who are past patients of the Healthcare Provider will be provided only with approval under standards and/or procedures approved by the Health Current Data Governance Council. Access is not permitted for Data of individuals who have opted out.

Time Period and Types of Data That May Be Accessed: To comply with the minimum necessary standard, access is limited to only the PHI needed for the particular Population Health project. The Healthcare Provider or its Business Associate will limit its request to only PHI needed for each particular project, and will comply with standards and/or procedures approved by the Health Current Data Governance Council to implement the HIPAA minimum necessary standard.
IV. Health Plan Use Cases

This section outlines the permissible purposes for access to Data by Health Plans that are Participants in Health Current, or by Business Associates on behalf of such Health Plans, as permitted by Applicable Law.

A. Care Coordination, Care or Case Management and Transition of Care Planning

Permitted Use: Health Plans that are Participants, or Business Associates on behalf of such Health Plans, may access Data for care coordination, care or case management, and transition of care planning purposes.

Individuals for Whom Data May Be Accessed: Access is permitted for Data of current members enrolled in the Health Plan and for past members whom the Health Plan is transitioning to a new Health Plan. Access is not permitted for Data of individuals who have opted out.

Time Period and Types of Data That May Be Accessed: To comply with the minimum necessary standard, access is limited to Data relevant to care coordination, care or case management, or transition of care planning, and which is generated during the 36 months prior to the request. Access to Data older than 36 months will require Health Plan to comply with the standards and/or procedures approved by the Health Current Data Governance Council to implement the HIPAA minimum necessary standard.

Special Restrictions on Part 2 Data: Health Plans may access Part 2 Data for care coordination, care or case management, and transition of care planning only if the individual or the individual’s healthcare decision maker has signed a Part 2 Consent Form and the Health Plan follows the Health Current policies related to documenting that consent.

B. Population Health

Permitted Use: Health Plans that are Participants, or Business Associates on behalf of such Health Plans, may access Data for Population Health purposes.

Individuals for Whom Data May Be Accessed: Access is permitted for Data of individuals who are current members of the Health Plan. Data about individuals who are past members of the Health Plan will be provided only with approval under standards and/or procedures approved by the Health Current Data Governance Council. Access is not permitted for Data of individuals who have opted out.

Time Period and Types of Data That May Be Accessed: To comply with the minimum necessary standard, the Health Plan or its Business Associate will limit its request to only PHI needed for each
particular project, and will comply with standards and/or procedures approved by the Health Current Data Governance Council to implement the HIPAA minimum necessary standard.

**Special Restrictions on Part 2 Data:** For the use of Part 2 Data for Permitted Uses in this section, Health Current will consult with legal counsel and obtain approval of the Health Current Data Governance Council to use Part 2 Data for the particular purpose.

### V. Authorized Recipients

This section outlines the permissible access to Data by Authorized Recipients.

**Permitted Use:** Authorized Recipients may access the Data described in the HIPAA Authorization.

**Individuals for Whom Data May Be Accessed:** Access is permitted for Data of the individual who is the subject of the HIPAA Authorization only. Access is not permitted for Data of that individual if that individual has opted out.

**Time Period and Types of Data That May Be Accessed:** Access is limited to the Data described in the HIPAA Authorization, including any date restrictions on the Data. To release HIV information, the HIPAA Authorization must specifically indicate that one of its purposes is to release HIV information. If the Data is not date restricted, access is permitted to the Data described in the HIPAA Authorization generated during any time period relevant to the purposes described in the HIPAA Authorization.

**Expiration of Access:** Access to the Data described in the HIPAA Authorization expires upon the expiration date on the HIPAA Authorization. If the HIPAA Authorization contains an expiration event, rather than an expiration date, the Authorized Recipient may receive access only one time unless the Authorized Recipient demonstrates that the expiration event has not passed.

**Special Restrictions on Part 2 Data:** Authorized Recipients may access Part 2 Data only if the individual or the individual’s healthcare decision maker has signed a Part 2 Consent Form and the Authorized Recipient follows the Health Current policies related to documenting that consent.

### VI. Health Current Use Cases

**Permitted Uses:** Health Current may not use or disclose Data in a manner prohibited by Applicable Law. Health Current may access Data for the following purposes, as permitted by Applicable Law:

- As required by law;
- As required by a subpoena in accordance with A.R.S. § 36-3808;
- As necessary to perform services under the Participation Agreement and to assist Participants (and Participants’ Business Associates) in the Permitted Uses;
- As directed in writing by the Data Supplier that provided the Data;
- To provide access to an individual in accordance with A.R.S. § 36-3802;
• To provide services to Healthcare Providers participating in the Practice Innovation Institute, including but not limited to reporting required in contracts or grants;
• To conduct Population Health activities;
• To conduct public health reporting, including (but not limited to) reporting of immunization data to the State of Arizona Immunization Registry;
• To create De-identified Data to be used for purposes other than Research; and
• For Health Current’s own management and administration or to carry out its legal responsibilities, including but not limited to audit, legal defense and liability, record keeping, and similar obligations.

Individuals for Whom Data May Be Accessed: Health Current may access Data of individuals whose information is relevant to the activities and services listed above. Health Current may not disclose Data of individuals who have opted out for these purposes, except as required by law or as required by a subpoena, or to conduct mandatory public health reporting.

Time Period and Types of Data That May Be Accessed: To comply with the minimum necessary standard, access is limited to only the PHI needed for the particular purpose. Health Current will determine the minimum PHI needed for each particular project.

Special Restrictions on Part 2 Data: For the use of Part 2 Data for Permitted Uses in this section, Health Current will consult with legal counsel and obtain approval of the Health Current Data Governance Council to use Part 2 Data for the particular purpose.

VII. Process for Approval of New Use Cases

To make any future adjustments to this policy, the following process will be followed:

• Health Current or any Participant in Health Current may propose a new use case for consideration by the Health Current Data Governance Council. The proposal shall set forth specific details regarding:
  o the purpose of the new use case;
  o which category of Participants or Health Current is proposed to have access to Data under the new use case;
  o a description of the individuals for whom Data may be accessed;
  o the types of Data that may be accessed for the use case; and
  o the time period for which Data may be accessed (e.g., “Data created during the 36 months prior to the request”), or other criteria to be used to implement the HIPAA minimum necessary standard.

• The Health Current Data Governance Council will review new proposed use cases. The Council will issue a schedule for consideration of new use cases that will be made available to all Participants from time to time.
• If the Health Current Data Governance Council recommends approval of a new use case, such recommendation will be provided to the Health Current Board of Directors for consideration.

• If a new use case is approved by the Health Current Board of Directors and is consistent with Applicable Law, this Policy will be amended to reflect such new use case and notice will be provided to all Participants consistent with the Health Current Participation Agreement.

Board Approval: January 24, 2017

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i “Health care” means “care, services, or supplies related to the health of an individual. Health care includes, but is not limited to, the following: (1) Preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care, and counseling, service, assessment, or procedure with respect to the physical or mental condition, or functional status, of an individual or that affects the structure or function of the body; and (2) Sale or dispensing of a drug, device, equipment, or other item in accordance with a prescription.” See 45 C.F.R. § 160.103. So, any person or organization that furnishes, bills or is paid for “health care” in the normal course of business is a “healthcare provider.”

“Provider of services” means “a hospital, critical access hospital, skilled nursing facility, comprehensive outpatient rehabilitation facility, home health agency, hospice program, or, for purposes of section 1395f(g) and section 1395n(e) of this title, a fund.” See 42 U.S.C. § 1395x(u).

“Medical and other health services” includes the items or services listed in 42 U.S.C. § 1395x(s).

ii See 45 C.F.R. § 160.103, which defines “health plan” to include “an individual or group plan that provides, or pays the cost of, medical care (as defined in section 2791(a)(2) of the PHS Act, 42 U.S.C. 300gg-91(a)(2)).

iii See 45 C.F.R. § 164.501; Institute for Health Technology Transformation (iHT2).

iv See 45 C.F.R. § 164.501.

v Health Current adopts the definition of “research” at 45 C.F.R. § 46.102, which is “a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge.”