



healthcurrent

## Health Current

### Permitted Use Policy

Effective September 8, 2019

#### I. Purpose

This Policy describes the specific purposes for accessing or receiving Data from Health Current, Arizona's statewide 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 described in this Policy, as may be amended from time to time.

This Policy also describes access restrictions on certain types of data that is submitted to the HIE, including Part 2 Data and Claims Data. Because Genetic Testing Information does not flow to the HIE, this Policy does not describe restrictions that apply to access to Genetic Testing Information.

#### 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 Health Current, Participants, Authorized Recipients, or other individuals who access Data through the HIE.

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 is accessing Data through Health Current to provide services to, or on behalf of, the Participant.

Claims Data means those standard transactions between two parties to carry out financial or administrative activities related to healthcare, including bills sent by healthcare providers to a health plan to request payment for medical services and payment of such bills by a health plan. Claims Data consists of two components: (1) clinical data; and (2) financial data. **For purposes of this Policy, the restrictions on Claims Data apply to the financial data component only.**

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 the HIE 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.

DOJ means the United States Department of Justice.

FTC means the Federal Trade Commission.

Genetic Testing Information means genetic testing and information derived from genetic testing. Genetic testing means a test of a person's genes, genetic sequence, gene products or chromosomes for abnormalities or deficiencies, including carrier status, that: (i) are linked to physical or mental disorders or impairments; (ii) indicate a susceptibility to any illness, disease, impairment or other disorder, whether physical or mental; or (iii) demonstrate genetic or chromosomal damage due to any environmental factor. Genetic testing does **NOT** include: (i) chemical, blood and urine analyses that are widely accepted and used in clinical practice and that are not used to determine genetic traits; (ii) tests that are used in a criminal investigation or prosecution or as a result of a criminal conviction; (iii) tests for the presence of the human immunodeficiency virus; (iv) tests to determine paternity that are conducted pursuant to Title 25, Chapter 6, Article 1 of the Arizona Revised Statutes; or (v) tests that are given for use in biomedical research that is conducted to generate scientific knowledge about genes or to learn about the genetic basis of disease or for developing pharmaceutical and other treatment of disease.

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 a Healthcare Provider.

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.

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

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

Limited Public Health Investigation means a Public Health Authority investigation, as authorized by law, that is in response to a voluntary or mandatory public health report, including (but not limited to) Public Health Authority investigations into a communicable disease report or report of opioid poisoning. Limited Public Health Investigations do **NOT** include fraud and abuse detection activities, provider or facility monitoring, other health oversight activities, or general public health surveillance or public health interventions.

Medical Examiner means a person or entity authorized by law to identify a deceased person, determine a cause of death of a deceased individual, or perform other duties as authorized by law. See also A.R.S. § 11-591 etseq.

Organ Procurement Organization means any organization that is engaged in the procurement,

banking, or transplantation of cadaveric organs, eyes, or tissue for the purposes of facilitating organ, eye or tissue donation and transplantation, which may include (i) any organization designated by the Secretary of the United States Department of Health and Human Services as an organ procurement organization, (ii) a tissue bank, or (iii) eye bank. See A.R.S. § 36-841.

Part 2 Consent Form means a form approved by Health Current for accessing Part 2 Data through the HIE and meets the consent requirements under the federal Confidentiality of Substance Use Disorder Patient Records regulations at 42 C.F.R. Part 2.

Part 2 Data means information protected by the federal Confidentiality of Substance Use Disorder Patient Records regulations at 42 C.F.R. Part 2.

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

Payment means activities defined at 45 C.F.R. § 164.501, including but not limited to activities undertaken by (1) a Health Plan to obtain premiums and/or to determine or fulfill coverage obligations and provisions of benefits under a health plan, and (2) a Healthcare Provider or Health Plan to obtain or provide reimbursement for the provision of healthcare. Payment does **NOT** include activities defined as health care operations at 45 C.F.R. § 164.501, such as underwriting or other activities relating to the creation, renewal, or replacement of a contract of health insurance or health benefits.

Permitted Use includes the use cases as set forth below. Unless a Permitted Use is required by law or as required by subpoena, a Permitted Use is subject to an individual's right under Applicable Law to opt out of permitting access to his/her Data in the HIE.

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.

Public Health Authority means an agency or authority of the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, or a person or entity acting under a grant of authority from or contract with such public agency, including the employees or agents of such public agency or its contractors or persons or entities to whom it has granted authority, that is responsible for public health matters as part of its official mandate.

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.

### **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 who are providing services to, or 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 (i) current patients of the Healthcare Provider, (ii) prospective patients with whom the Healthcare Provider is expected to establish a treatment relationship (for example, an individual who is scheduled for an upcoming appointment or who has been assigned to the Healthcare Provider by a Health Plan), and (iii) past patients for whom the Healthcare Provider is transitioning to a new Healthcare Provider. Access is not permitted for Data of individuals who have opted out of the HIE.

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 to the extent necessary to meet a bona fide medical emergency in which the individual's prior consent cannot be obtained, and if they follow Health Current policies or procedures related to documenting the medical emergency.
- Healthcare Providers may access Part 2 Data for non-emergency Treatment purposes only if the individual has signed a Part 2 Consent Form or as otherwise permitted by 42 C.F.R. Part 2, and if they follow the Health Current policies or procedures related to documenting that consent.

Special Restrictions on Claims Data (financial data component only): Health Current will restrict Healthcare Providers' access to the financial data component of Claims Data of other Data Suppliers consistent with federal antitrust policy established by the DOJ and FTC in the Statements of Antitrust Enforcement Policy in Health Care (Aug. 1996), as amended from time to time.

## **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 or procedures approved by the Health Current Data Governance Council or the Health Current Board of Directors. Access is not permitted for Data of individuals who have opted out of the HIE.

Time Period and Types of Data That May Be Accessed: To comply with the minimum necessary standard, the Healthcare Provider or its Business Associate will limit its request to only the PHI needed for the particular Population Health project, and which is generated during the 36 months prior to the request. The Healthcare Provider or its Business Associate will comply with procedures approved by the

Health Current Data Governance Council or the Health Current Board of Directors to implement the HIPAA minimum necessary standard.

Special Restrictions on Part 2 Data: Healthcare Providers may access Part 2 Data for Population Health purposes only if the individual has signed a Part 2 Consent Form or as otherwise permitted by 42 C.F.R. Part 2, and the Healthcare Provider follows the Health Current policies or procedures related to documenting that consent.

Special Restrictions on Claims Data (financial data component only): Health Current will restrict Healthcare Providers' access to the financial data component of Claims Data of other Data Suppliers consistent with federal antitrust policy established by the DOJ and FTC in the Statements of Antitrust Enforcement Policy in Health Care (Aug. 1996), as amended from time to time.

### **C. Payment**

Permitted Use: Healthcare Providers that are Participants, or Business Associates on behalf of such Healthcare Providers, may access Data for Payment purposes, except that Data may **NOT** be accessed for the purpose of disclosing Data to consumer reporting agencies.

Individuals for Whom Data May Be Accessed: Access is permitted for Data of individuals who are (i) current patients of the Healthcare Provider, (ii) prospective patients of the Healthcare Provider with whom the Healthcare Provider is expected to establish a treatment relationship, and (iii) past patients of the Healthcare Provider that have an outstanding payment obligation to the Healthcare Provider. Access is not permitted for Data of individuals who have opted out of the HIE.

Time Period and Types of Data That May Be Accessed: To comply with the minimum necessary standard, the Healthcare Provider or its Business Associate will limit its request to only the PHI needed for the Healthcare Provider to obtain reimbursement for the healthcare services provided, and which is generated during the 13 months prior to the request. The Healthcare Provider or its Business Associate will comply with procedures approved by the Health Current Data Governance Council or the Health Current Board of Directors to implement the HIPAA minimum necessary standard.

Special Restrictions on Part 2 Data: Healthcare Providers may access Part 2 Data for Payment purposes only if the individual has signed a Part 2 Consent Form or as otherwise permitted by 42 C.F.R. Part 2, and the Healthcare Provider follows the Health Current policies or procedures related to documenting that consent.

Special Restrictions on Claims Data (financial data component only): Health Current will restrict Healthcare Providers' access to the financial data component of Claims Data of other Data Suppliers consistent with federal antitrust policy established by the DOJ and FTC in the Statements of Antitrust Enforcement Policy in Health Care (Aug. 1996), as amended from time to time.

### **D. Limited Healthcare Operations Activities: Conducting Quality Assessment and Improvement Activities; Developing Clinical Guidelines and Protocols; and Conducting Patient Safety Activities**

Permitted Use: Healthcare Providers that are Participants, or Business Associates on behalf of such Healthcare Providers, may access Data for the following limited healthcare operations activities: (i)

conducting quality assessment and improvement activities; (ii) developing clinical guidelines and protocols; and (iii) conducting patient safety activities.

Individuals for Whom Data May Be Accessed: Access is permitted for Data of individuals who are current or past patients of the Healthcare Provider. Access is not permitted for Data of individuals who have opted out of the HIE.

Time Period and Types of Data That May Be Accessed: To comply with the minimum necessary standard, the Healthcare Provider or its Business Associate will limit its request to only the PHI needed for the Healthcare Provider to conduct the limited healthcare operations activities described in this Section, and which is generated during the 13 months prior to the request. The Healthcare Provider or its Business Associate will comply with procedures approved by the Health Current Data Governance Council or the Health Current Board of Directors to implement the HIPAA minimum necessary standard.

Special Restrictions on Part 2 Data: Healthcare Providers may access Part 2 Data for the limited health care operations activities described in this Section only if the individual has signed a Part 2 Consent Form or as otherwise permitted by 42 C.F.R. Part 2, and the Healthcare Provider follows the Health Current policies or procedures related to documenting that consent.

Special Restrictions on Claims Data (financial data component only): Health Current will restrict Healthcare Providers' access to the financial data component of Claims Data of other Data Suppliers consistent with federal antitrust policy established by the DOJ and FTC in the Statements of Antitrust Enforcement Policy in Health Care (Aug. 1996), as amended from time to time.

#### **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 who are providing services to, or 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 with 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 of the HIE.

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 the PHI 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. The Health Plan or its Business Associate will comply with

procedures approved by the Health Current Data Governance Council or the Health Current Board of Directors 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 has signed a Part 2 Consent Form or as otherwise permitted by 42 C.F.R. Part 2, and the Health Plan follows the Health Current policies or procedures related to documenting that consent.

Special Restrictions on Claims Data (financial data component only): Health Current will restrict Health Plans' access to the financial data component of Claims Data of other Data Suppliers consistent with federal antitrust policy established by the DOJ and FTC in the Statements of Antitrust Enforcement Policy in Health Care (Aug. 1996), as amended from time to time.

## **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 or procedures approved by the Health Current Data Governance Council or the Health Current Board of Directors. Access is not permitted for Data of individuals who have opted out of the HIE.

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 the PHI needed for the particular Population Health project, and which is generated during the 36 months prior to the request. The Health Plan or its Business Associate will comply with procedures approved by the Health Current Data Governance Council or the Health Current Board of Directors to implement the HIPAA minimum necessary standard.

Special Restrictions on Part 2 Data: Health Plans may access Part 2 Data for Population Health Purposes only if the individual has signed a Part 2 Consent Form or as otherwise permitted by 42 C.F.R. Part 2, and the Health Plan follows the Health Current policies or procedures related to documenting that consent.

Special Restrictions on Claims Data (financial data component only): Health Current will restrict Health Plans' access to the financial data component of Claims Data of other Data Suppliers consistent with federal antitrust policy established by the DOJ and FTC in the Statements of Antitrust Enforcement Policy in Health Care (Aug. 1996), as amended from time to time.

## **C. Payment**

Permitted Use: Health Plans that are Participants, or Business Associates on behalf of such Health Plans, may access Data for Payment purposes, except that Data may **NOT** be accessed for the purpose of disclosing Data to consumer reporting agencies.

Individuals for Whom Data May Be Accessed: Access is permitted for Data of individuals who are

(i) current members enrolled with the Health Plan, (ii) prospective members seeking to enroll with a Health Plan, and (iii) past members for whom the Health Plan is transitioning to a new Health Plan or with whom the Health Plan is continuing to resolve a Payment issue. Access is not permitted for Data of individuals who have opted out of the HIE.

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 the PHI needed by the Health Plan for Payment purposes, and which is generated during the 13 months prior to the request. The Health Plan or its Business Associate will comply with procedures approved by the Health Current Data Governance Council or the Health Current Board of Directors to implement the HIPAA minimum necessary standard.

Special Restrictions on Part 2 Data: Health Plans may access Part 2 Data for Payment purposes only if the individual has signed a Part 2 Consent Form or as otherwise permitted by 42 C.F.R. Part 2, and the Health Plan follows the Health Current policies or procedures related to documenting that consent.

Special Restrictions on Claims Data (financial data component only): Health Current will restrict Health Plans' access to the financial data component of Claims Data of other Data Suppliers consistent with federal antitrust policy established by the DOJ and FTC in the Statements of Antitrust Enforcement Policy in Health Care (Aug. 1996), as amended from time to time.

#### **D. Limited Healthcare Operations Activities: Conducting Quality Assessment and Improvement Activities; Developing Clinical Guidelines and Protocols; and Conducting Patient Safety Activities**

Permitted Use: Health Plans that are Participants, or Business Associates on behalf of such Health Plans, may access Data for the following limited healthcare operations activities: (i) conducting quality assessment and improvement activities; (ii) developing clinical guidelines and protocols; and (iii) conducting patient safety activities.

Individuals for Whom Data May Be Accessed: Access is permitted for Data of individuals who are current or past members of the Health Plan. Access is not permitted for Data of individuals who have opted out of the HIE.

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 the PHI needed for the Health Plan to conduct the limited healthcare operations activities described in this Section, and which is generated during the 13 months prior to the request. The Health Plan or its Business Associate will comply with procedures approved by the Health Current Data Governance Council or the Health Current Board of Directors to implement the HIPAA minimum necessary standard.

Special Restrictions on Part 2 Data: Health Plans may access Part 2 Data for the limited health care operations activities described in this Section only if the individual has signed a Part 2 Consent Form or as otherwise permitted by 42 C.F.R. Part 2, and the Health Plan follows the Health Current policies or procedures related to documenting that consent.

Special Restrictions on Claims Data (financial data component only): Health Current will restrict Health Plans' access to the financial data component of Claims Data of other Data Suppliers consistent with

federal antitrust policy established by the DOJ and FTC in the Statements of Antitrust Enforcement Policy in Health Care (Aug. 1996), as amended from time to time.

## **V. Public Health Authority Use Cases**

This Section outlines the permissible purposes for access to Data by a Public Health Authority that is a Participant in Health Current, as permitted by Applicable Law.

### **A Limited Public Health Investigations**

Permitted Use: A Public Health Authority that is a Participant may access Data for a Limited Public Health Investigation. This use case is contingent on there being adequate technical and/or administrative procedures in place to provide access in compliance with Applicable Law. Health Current will not give a Public Health Authority direct access for a Limited Public Health Investigation until this condition precedent is satisfied.

Individuals for Whom Data May Be Accessed: Access is permitted for Data of individuals who are the subject of a Limited Public Health Investigation. Unless required by law or as required by subpoena, access is not permitted for Data of individuals who have opted out of the HIE.

Time Period and Types of Data That May Be Accessed: To comply with the minimum necessary standard, a Public Health Authority will limit its request to only the PHI needed for a particular Limited Public Health Investigation. A Public Health Authority will comply with procedures approved by the Health Current Data Governance Council or the Health Current Board of Directors to implement the minimum necessary standard. Such procedures may differ depending on the nature and type of Limited Public Health Investigation.

Special Restrictions on Part 2 Data: A Public Health Authority may access Part 2 Data for Limited Public Health Investigations described in this Section only if the individual (or legally authorized representative, if permitted under Applicable Law) has signed a Part 2 Consent Form or as otherwise permitted by 42 C.F.R. Part 2, and the Public Health Authority follows the Health Current policies or procedures related to documenting that consent.

Special Restrictions on Claims Data (financial data component only): Health Current will restrict a Public Health Authority's access to the financial data component of Claims Data of other Data Suppliers consistent with federal antitrust policy established by the DOJ and FTC in the Statements of Antitrust Enforcement Policy in Health Care (Aug. 1996), as amended from time to time.

### **B [RESERVED]**

## **VI. Medical Examiner Use Case**

This Section outlines the permissible purposes for access by Medical Examiners, as permitted by Applicable Law.

Permitted Use: Medical Examiners may access Data for purposes of identifying a deceased person, determining a cause of death, conducting a death investigation, or performing other duties as authorized by Applicable Law (collectively, “Medical Examiner Activities”). See A.R.S. § 11-594.

Individuals for Whom Data May Be Accessed: Access is permitted for Data of individuals who are the subject of the Medical Examiner Activities. Unless required by law or as required by subpoena, access is not permitted for Data of individuals who have opted out of the HIE.

Time Period and Types of Data That May Be Accessed: To comply with the minimum necessary standard, the Medical Examiner will limit its request to only the PHI needed for the particular Medical Examiner Activity, and which was generated during the 24 months prior to the request. The Medical Examiner will comply with procedures approved by the Health Current Data Governance Council or the Health Current Board of Directors to implement the HIPAA minimum necessary standard.

Special Restrictions on Part 2 Data: Medical Examiners may access Part 2 Data for death investigations as permitted by Applicable Law, see 42 C.F.R. § 2.15(b). Medical Examiners may access Part 2 Data for other Medical Examiner Activities only if the individual (or legally authorized representative) has signed a Part 2 Consent Form or as otherwise permitted by 42 C.F.R. Part 2, and the Medical Examiner follows the Health Current policies or procedures related to documenting that consent.

Special Restrictions on Claims Data (financial data component only): Health Current will restrict Medical Examiners’ access to the financial data component of Claims Data of other Data Suppliers consistent with federal antitrust policy established by the DOJ and FTC in the Statements of Antitrust Enforcement Policy in Health Care (Aug. 1996), as amended from time to time.

## **VII. Organ Procurement Organization Use Case**

This Section outlines the permissible purposes for access to Data by Organ Procurement Organizations, as permitted by Applicable Law. (This use case is contingent upon SB 1321(2019) being signed into law and will be effective as of the effective date of that law.)

Permitted Use: Organ Procurement Organizations may access Data for the purpose of facilitating organ, eye or tissue donation and transplantation as permitted by Applicable Law.

Individuals for Whom Data May Be Accessed: Access is permitted for Data of individuals who are donors or prospective donors of their organ(s), eye(s) or tissue(s). Access is not permitted for Data of individuals who have opted out of the HIE.

Time Period and Types of Data That May Be Accessed: To comply with the minimum necessary standard, Organ Procurement Organizations will limit their request to only the PHI needed for the particular organ, tissue or eye procurement activity. Organ Procurement Organizations will comply with procedures approved by the Health Current Data Governance Council or the Health Current Board of Directors to implement the HIPAA minimum necessary standard.

Special Restrictions on Part 2 Data: Organ Procurement Organizations may access Part 2 Data for the activities described in this Section only if the individual (or legally authorized representative, if

permitted under Applicable Law) has signed a Part 2 Consent Form or as otherwise permitted by 42 C.F.R. Part 2, and the Organ Procurement Organization follows the Health Current policies or procedures related to documenting that consent.

Special Restrictions on Claims Data (financial data component only): Health Current will restrict Organ Procurement Organizations' access to the financial data component of Claims Data of other Data Suppliers consistent with federal antitrust policy established by the DOJ and FTC in the Statements of Antitrust Enforcement Policy in Health Care (Aug. 1996), as amended from time to time.

## **VIII. 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, unless the form used expressly states that the individual is changing his or her previous decision to opt 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 has signed a Part 2 Consent Form or as otherwise permitted by 42 C.F.R. Part 2.

## **IX. Health Current Use Cases**

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

- As required by law;
- As required by a subpoena and, if applicable, 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 provide Data to a Public Health Authority to conduct a Limited Public Health Investigation;
- 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 of the HIE 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 consistent with the procedures approved by the Health Current Data Governance Council or the Health Current Board of Directors 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 obtain approval of the Health Current Data Governance Council to use Part 2 Data for the particular purpose.

Special Restrictions on Claims Data (financial data component only): When using the financial data component of Claims Data to assist Participants and their Business Associates as described in this Section (including providing services in connection with the Practice Innovation Institute), Health Current will restrict Participants' and their Business Associates' access to the financial data component of Claims Data of other Data Suppliers consistent with federal antitrust policy established by the DOJ and FTC in the Statements of Antitrust Enforcement Policy in Health Care (Aug. 1996), as amended from time to time.

Waiver of Notice Requirement: Requests for Data by a Public Health Authority to conduct Limited Public Health Investigations are not subject to the notice requirement in the Health Current Participation Agreement, currently located in Section 2.2(c)(ii).

## **X. 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 should set forth specific details regarding:
  - The purpose of the new use case;

- Which category of Participants or Health Current is proposed to have access to Data under the new use case;
  - A description of the individuals for whom Data may be accessed;
  - The types of Data that may be accessed for the use case; and
  - 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, it will forward the completed “Permitted Use Approval” checklist, attached as **Exhibit A**, along with its recommendation 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.

Version: Board Approved May 28, 2019

# EXHIBIT A



## Permitted Use Approval

**APPLICABILITY:** The Health Current Data Governance Council must complete this checklist before recommending to the Health Current Board a proposed permitted use.

**PURPOSE:** This form will help Health Current to determine whether approval of a proposed permitted use is appropriate.

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**Proposed Use Case:** \_\_\_\_\_

### Description:

Insert full description of use case, including specific examples. Also include a description and examples of activities that do not fit within the permitted use.

**Due Diligence** (check all that apply):

- Compliance with Arizona law** (e.g., HIO, Mental Health, Communicable Disease Statutes) Notes:
- Compliance with Federal law** (e.g., HIPAA, 42 C.F.R. Part 2, GINA) Notes:
- Technical Requirements Considered** (e.g., System Capacity, Audit Capabilities) Notes:
- HIPAA Min Necessary Standard Considered** Recommendation:
- Additional Considerations** (e.g., Commercial, Political) Notes:

**Data Governance Council Recommendation:** \_\_\_\_\_