

BARNABAS HEALTH
POLICY # HIE-2
INFORMATION TECHNOLOGY AND SERVICES
POLICY

TITLE: Patient Participation and Choice

EFFECTIVE DATE: 6/18/2015

APPROVED BY: 

System: System Chief Information Officer/
Barnabas Health

Date: 9/1/2015

ATTACHMENTS:

None

PURPOSE:

To set forth minimum requirements pursuant to which patients are made aware of how their Data may be collected, used and disclosed through the Barnabas Health Information Exchange (BHIE), and are assured the right to “Opt-Out” of having their Data made available for access through the BHIE.

POLICY:

1. Including Data in BHIE (Barnabas owned facilities, and Barnabas Health employees, and other Participants):
 - a. Data contained in an EMR maintained by a Participant registered with the BHIE as a **Data Sharer** may be pulled by the BHIE on behalf of other BHIE Participants.
 - b. Data contained in an EMR that is maintained by a Participant registered with the BHIE as a **Data Supplier** may, in general, also may be Pulled by Participants in the BHIE.
 - c. “Including” Data in the BHIE **does not** automatically permit access to such Data by all Participants and Authorized Users. Data maintained in the BHIE must not be accessed by any Participant or Authorized User unless such access is in accordance with and permissible under these BHIE Policies, and all additional

requirements and conditions, including under applicable federal and state laws, are satisfied.

2. Patient Education.

- a. Patients will be provided with educational information regarding the BHIE and how their Data may be accessed, used and shared with Authorized Users. To further the policy of ensuring patient education, Participants should utilize the BHIE brochure (see Form "A"), or provide information and education to their patients that is substantially similar in form and substance to the BHIE brochure.
- b. A list of Participants shall be made available for patients through the BHIE's webpage, and if a Participant maintains a website, then a link to the BHIE webpage shall also be placed on such Participant's website. Each Participant must also provide a hard copy of such list if requested by a patient.

3. Choice to Not Participate in BHIE/Consents

- a. Patients shall be given the option and opportunity to choose to not have Data about them accessed or made available through the BHIE.
- b. Patients may exercise their right to be excluded from the BHIE by completing a BHIE "Opt-Out Form" (see BHIE Brochure, Form "A"). Once a patient has completed and submitted such Opt-Out form, the patient's decision to opt-out of having their Data shared through the BHIE shall be honored. Any Participant that receives a copy of the Opt-Out Form shall transmit the same without delay to the BHIE for processing.
- c. Upon "go live" of the BHIE, the Opt-Out Form must be (i) provided with the BHIE Brochure (or equivalent) at least once upon a patient's first visit to a treating Participant; (ii) made available through the BHIE Webpage; and (iii) provided to a Patient upon request.
- d. Each Participant shall be solely responsible for knowing and determining whether, in addition to the opt out option and HIE Brochure, if the Patient's oral or written authorization or consent must be obtained prior to allowing access to such Patient's Data through the BHIE. For example, if a law or regulation requires a Participant (e.g., a psychologist) to not permit disclosure of Data without prior written consent of the patient, then such Participant is solely responsible for obtaining such prior written consent or not participating in the BHIE in a manner that would cause a violation of such standard or law.

4. Granularity of Choice.

- a. Each Patient's right to "opt-out" of the BHIE shall be limited to:

Excluded from BHIE – The Patient's Data may remain in the BHIE, but such information about the Patient will NOT be accessible by any Participant or Authorized User. The opt-out choice shall result in a **complete** opt-out of a Patient's Data being shared through the BHIE.

- b. Technological advances to limit data collection, use, and/or disclosure and that may provide Patients with additional options for granularity of choice shall be evaluated regularly and taken advantage of, as appropriate. If additional granularity of choice options are implemented by the BHIE, Participants shall adhere to amended policies implementing additional choice categories that may be afforded to Patients.

5. Effect of Opt-Out.

- a. After a Patient exercises his or her decision to opt-out, such Patient's Data (including the Patient's name, if a complete opt-out is selected) shall no longer be accessible to Participants through the BHIE as set forth in and in accordance with the Patient's opt-out choice. The Patient's opt-out shall be **durable** and **revocable**. A Patient may revoke his or her opt-out only in writing as set forth below in the next section.
- b. BHIE shall implement appropriate procedures and mechanisms to ensure that there is no further access of the Patient's Data through the BHIE for Patients who opt-out of the BHIE. Such procedures shall include at least the following:
 - i. All Opt-Out Forms received by Participant will be forwarded expeditiously to BHIE Program Manager who shall be responsible for processing opt-out requests for the BHIE;
 - ii. The BHIE Program Manager, as well as any Participant who forwarded the Opt-out form to the BHIE Program Manager, shall retain scanned copies of completed opt-out forms. Such documentation shall be maintained by for a minimum of ten (10) years. Copies should be included as part of the Patient's medical record with a Participant if the Opt-out form was provided directly to that Participant by the patient.

6. Revocation of Prior Opt-Out.

- a. A Patient who has opted-out of the BHIE subsequently may choose to have his or her Data made available through the BHIE only if such Patient rescinds in writing his or her prior decision to opt-out.
- b. Each Participant shall implement appropriate procedures and mechanisms to effectuate a patient's rescission of prior opt-out in order to allow the patient's information to be accessible through the BHIE. Such procedures shall include at least the following:
 - i. Patient submits completed "**CANCELLATION OF PRIOR BARNABAS HIE OPT-OUT**" (included in the HIE Brochure, see Form "A"), to a Participant or through submitting the same in accordance with instructions provided on such form (e.g., mail in or fax in to the HIE).
 - ii. Any such form submitted to a Participant shall be forwarded without delay to such Participant's respective contact, who shall forward the request to BHIE Program Manager.
 - iii. The BHIE Program Manager shall be responsible for processing revocation of opt-out requests with regard to the BHIE.

- iv. Participants shall retain copies of completed revocation of opt-out forms. Such documentation shall be maintained by for a minimum of ten (10) years. Copies should be included as part of the Patient’s medical record with a Participant if the Opt-out form was provided directly to that Participant by the patient.

7. No Withholding Coverage or Care.

Participants and Authorized Users shall never withhold medical care from a Patient on the basis of the Patient choosing not to have Data about him or her included in the BHIE.

8. Opting Out from Other HIEs.

- a. It will be presumed that a Patient who chooses to opt-out of the BHIE will also want to be opted-out of any Affiliated HIE with whom one or more Barnabas Health facilities is a Participant.
- b. The BHIE Program Manager will forward all BHIE opt-out requests (forms) to participating Affiliated HIE’s to be processed in accordance with such Affiliated HIE’s respective opt-out policy.

QUALIFICATIONS: NA

EQUIPMENT: NA

PROCEDURE: NA

DOCUMENTATION: NA

INFECTION CONTROL: NA

SAFETY: NA

SECURITY OVERSIGHT GROUP (SOG) Approve for Release:

REFERENCES:

ORIGINAL DATE: 6/18/2015

REVIEWED DATE(S):

REVISED DATE(S):