

Reliance eHealth Collaborative

Patient Privacy Policy

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1. Purpose

- 1.1. This document establishes a privacy policy that considers patients’ rights and expectations while:
 - 1.1.1. 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.
 - 1.1.2. Allowing those with a right to know under HIPAA access to the information that helps to coordinate care and support care transitions to ensure the patient does not have medical complications resulting in costly care and hospital readmissions.
 - 1.1.3. Ensuring the patient’s information follows them at any point of entry in the health care system for better patient care.

2. Scope

- 2.1. This policy is applicable to all Users and User Organizations of Reliance. All Users Organizations, both senders and receivers of data, have signed the appropriate legal agreements to ensure the privacy and security of data in the Health Information Exchange, in compliance with State and Federal laws.
- 2.2. 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 of 2009 (HITECH)) or State privacy and security laws and regulations.

3. Definitions

- 3.1. Any non-defined terms used in this policy are consistent with the definitions in the Health Insurance Portability and Accountability Act (HIPAA).
- 3.2. **Health Care Provider** – a licensed health professional enrolled in Reliance with the authority to order or prescribe clinical tests and diagnostics, including physicians as defined by Title 18, Section 1861(r) of the Social Security Act, and clinical medical professionals who are licensed to diagnose and treat patients under the supervision of such licensed professionals. This also includes a licensed facility where health care is provided to patients (including, but not limited

to, a hospital, medical clinic, pharmacy, laboratory, nursing, radiology, and rehabilitation facilities).

- 3.3. **Health Information Exchange (HIE)** – an interoperable system that electronically moves and exchanges Protected Health Information between approved participating Health Care Providers or health information organizations in a manner that ensures the secure exchange of Protected Health Information to provide care to patients.
- 3.4. **Need-to-Know** – the standard or threshold of justification required by law and by Reliance policy of a User in order for that User to view patient information available through Reliance. In order to safeguard patient privacy, Reliance Users shall only have access to the minimum functions and privileges required for performing their jobs.
- 3.5. **Medical Emergency** – a condition which poses an immediate threat to the health of any individual and which requires immediate medical intervention. A treating Health Care Provider who determines that a condition which poses an immediate threat to the health of an individual exists can make the decision to gain access to a patient’s Protected Health Information without the patient’s consent.
- 3.6. **User Organization** – individuals and entities (including, but not limited to, Health Care Providers, physician practices, health care facilities, laboratories, payers, etc.) that enroll in and connect to Reliance to send and receive Protected Health Information.
- 3.7. **Protected Health Information (PHI)** – as defined by the HIPAA Privacy Rule (45 C.F.R § 160.103), any individually identifiable health information whether oral or recorded, in any form or medium, that is created or received by a Health Care Provider relating to the following:
 - 3.7.1. The past, present or future physical or mental health or medical condition of an individual.
 - 3.7.2. The past, present or future payment for the provision of health care to an individual.
- 3.8. **User** – an individual who is authorized by Reliance and its User Organization(s) to send, receive, and/or access PHI. Users are, for example, but not limited to, Health Care Providers and their workforce members (as defined by HIPAA), who have agreed to applicable Reliance requirements to maintain the privacy and security of the PHI they access through Reliance.

4. Patient Access

- 4.1. In accordance with HIPAA, patients shall be entitled to request from their Health Care Provider access to their own PHI, including the right to inspect, review and receive a copy of the patient’s PHI.
 - 4.1.1. Reliance Users shall be permitted, in accordance with applicable law, to charge reasonable, cost-based fees, including supplies and labor, for copying PHI records.
 - 4.1.2. Requests made for electronic copies of a patient’s PHI shall be provided electronically to the extent it is readily producible.

- 4.2. Reliance Users shall be permitted to deny a patient a copy of their PHI if the disclosure of the PHI could result in harm to the patient or another person, or for any other reason delineated by Federal or State law.
- 4.3. Reliance Users shall not be permitted to deny a patient a copy of their PHI because the patient has not yet paid for the services received.
- 4.4. Access to PHI by certain populations of individuals, such as those incarcerated, shall continue to be available subject to prevailing Federal and State laws.

5. Correction/Amendment of Data

- 5.1. In accordance with Federal law, patients shall be provided with a timely means to dispute the accuracy or integrity of their PHI, and to have erroneous information corrected or to have a dispute documented if their requests are denied.
- 5.2. Reliance does not have the authority to amend PHI. Once Protected Health Information has been provided to Reliance, any change to that data based upon a patient request to amend or correct such data can only be made by the source that originally contributed the data to Reliance.
 - 5.2.1. In the event the source that originally contributed the data is no longer operational, a Health Care Provider treating the patient may request, on behalf of the patient, that Reliance suppress erroneous data so that it is no longer available to Users through query.

6. Limitations on the Collection, Use and Disclosure of PHI

- 6.1. Reliance will not sell or disclose PHI to any third party for any commercial activity, as defined by HIPAA and HITECH, including, but not limited to marketing or fund raising activities.
 - 6.1.1. Additionally, User Organizations may not sell or disclose PHI derived from Reliance to any third party for any commercial activity, including, but not limited to marketing or fund raising activities.
- 6.2. PHI shall be collected, used and/or disclosed only to the extent necessary to accomplish specific purposes and never to discriminate inappropriately in accordance with State and Federal law.
- 6.3. The authorization of Reliance Users to access their own PHI shall be left to the discretion and internal policies of the User Organization.
- 6.4. Users shall only access PHI when there is a Need-to-Know based on their job function and as defined by HIPAA. Examples of inappropriate access include accessing PHI of an immediate family member, relative, friend, co-worker, etc. without a Need-to-Know.).
- 6.5. User Organizations must agree to take action within their own policies (consistent with applicable laws) when indications of potential misconduct are identified. Users who violate patient privacy are also subject to consequences ranging from immediate termination of access

to Reliance up to and including legal action in accordance with all applicable Federal and State laws.

6.6. Query Access: only Users enrolled in Reliance who have an established relationship with a patient will have access to that patient's PHI available through Reliance. Emergency care personnel will have access to Reliance whereby they can access patient records in a Medical Emergency on a Need-to-Know basis.

6.7. Expanded Query Access: Users may expand their access to patient information by requesting to establish a relationship with a patient in Reliance. Users are required to log a reason for the relationship and set a defined time period for access, which will default to 90 days and give the User the ability to select up to 180 days.

7. Openness and Transparency

7.1. Reliance shall be open and transparent with regard to policies and procedures that directly affect patients and their PHI.

7.2. Reliance shall establish standard, HIPAA-aligned Business Associate Agreements (BAA), standard language developed at an appropriate literacy level to include in Notice of Privacy Practices (NPP), and standard forms for patient participation ("opt-out") to be adopted and implemented by User Organizations.

7.2.1. Reliance will provide User Organizations tools such as talking points and frequently asked questions, and are encouraged to be open and transparent with their patients with regard to their privacy and security and the use of the HIE.

7.3. Reliance shall log and monitor system activity and User access to PHI. Refer to the Reliance Policy on System Monitoring, Auditing and Breach Notification for specific details.

7.4. Patients shall be provided the means and opportunity to request documentation (Audit Reports), in accordance with Federal and State law, summarizing access to and disclosure of their PHI through Reliance.

7.4.1. Reliance shall establish specific procedures and forms to respond to patient requests for Audit Reports in a timely manner.

8. Meaningful Patient Notification

8.1. User Organizations shall implement appropriate procedures to inform patients of their rights regarding electronic health information exchange.

8.1.1. Patients must be informed that an HIE may be used to deliver and exchange their PHI with User Organizations and their Users.

8.1.2. Patients must be informed of their right to restrict the sharing of their PHI through the HIE.

- 8.1.3. Patient notification must be simple, understandable, and at an appropriate literacy level; and adhere to obligations for use of appropriate language(s) and accessibility to persons with disabilities.
- 8.1.4. Meaningful notification must ensure that the patient's choice is:
 - 8.1.4.1. Made with advance knowledge/time;
 - 8.1.4.2. Not used for discriminatory purposes or as a condition for receiving medical treatment;
 - 8.1.4.3. Made with full transparency and education;
 - 8.1.4.4. Commensurate with circumstances for why PHI is exchanged;
 - 8.1.4.5. Consistent with patient expectations; and
 - 8.1.4.6. Revocable at any time.
- 8.2. Reliance shall make available to User Organizations tools necessary to respond to patient inquiries about Reliance (e.g., website links, brochures, answers to frequently asked questions, talking points, and the standard form for opt-out requests).

9. Individual Choice and Non-Participation (“Opt-Out”)

- 9.1. Patients may decide not to allow their PHI to be made available for query by authorized Users of Reliance. This “opt-out” can be executed by a patient or their legal representative/designee by submitting a Reliance Opt-Out Request Form.
- 9.2. If a patient chooses not to participate, that patient's PHI will not be available to Users (except in the event of a Medical Emergency) upon a query or expanded query of patient data in the HIE.
- 9.3. Nothing in this policy shall be construed to prohibit a Health Care Provider from obtaining and storing a patient's PHI in electronic form. Furthermore, such PHI may be directly exchanged between Health Care Providers who have an existing relationship with the patient and a Need-to-Know for Treatment, Payment or Healthcare Operations (TPO) in accordance with Federal and State law.
- 9.4. Patients who have previously chosen not to participate (opt-out) may choose to participate in the HIE again at any time by submitting a Cancellation of Opt-Out Form.
- 9.5. Reliance will implement specific procedures to respond to and process participation requests in a timely manner.