

**SECOND AMENDED AND RESTATED BY-LAWS OF
HAWAII HEALTH INFORMATION EXCHANGE**

Date of Adoption: July 20, 2011

ARTICLE I

PURPOSES AND NON-PROFIT CHARACTER

SECTION 1.1. Purposes. The purposes of the Corporation shall be as specifically set forth in Article III of the Articles of Incorporation as amended from time to time.

SECTION 1.2. Non-Profit Character. The Corporation shall be a non-profit Corporation, and any net income or earnings which may be derived from its operations, in pursuance of the purposes of the Corporation, shall not be distributed to any Director, or Officer of the Corporation, or any private individual, except to pay reasonable compensation for services rendered to the Corporation, but shall be used to promote the purposes of the Corporation.

ARTICLE II

PRINCIPAL OFFICE; REGISTERED AGENT

SECTION 2.1. Principal Office. The principal office of the Corporation shall be maintained at such place within the State of Hawaii, and the Corporation may have other offices within or without the State of Hawaii, as the Board of Directors shall determine.

SECTION 2.2. Place of Meetings. All meetings of the Board of Directors shall be held at the principal office of the Corporation, unless some other place is stated in the call.

SECTION 2.3. Registered Office and Registered Agent. The Corporation shall maintain a registered office and a registered agent in the State of Hawaii. The registered office may, but is not required to be identical with the principal office. Notwithstanding the foregoing, during such time that the Corporation has at least one Officer or Director who is a resident of the State of Hawaii, the Corporation may, but shall not be required to, maintain a registered office and registered agent in the State of Hawaii.

ARTICLE III

BOARD OF DIRECTORS

SECTION 3.1. Composition of Board of Directors.

- (a) The authorized number of Directors of the Corporation shall be not fewer than eight (8)

- and no more than thirty-five (35).
- (b) To the extent feasible and if not in conflict with any other law, the Board of Directors shall be composed of members that represent or are drawn from the following sectors of the population, as set forth in Division A, Title XIII, Health Information Technology (“HITECH Act”), of the American Recovery and Reinvestment Act of 2009, Public Law 111-5:
- i health care providers;
 - ii health plans;
 - iii patient or consumer organizations;
 - iv health information technology vendors;
 - v healthcare purchasers and employers;
 - vi public health agencies;
 - vii health professions schools, universities and colleges;
 - viii clinical researchers; and
 - ix other users of health information technology such as the support and clerical staff of providers and others involved in the care and coordination of patients.

SECTION 3.2. Terms and Voting Rights for Directors. The Directors shall be elected at each annual meeting of the Corporation for a period of three years with the terms of the Directors staggered to the extent possible or until their successor is elected. A Director shall not serve more than two consecutive full 3 year terms. Each Director is entitled to one (1) vote.

SECTION 3.3. Vacancies. If any vacancy shall occur in the Board of Directors because a Director is unable to serve due to a protracted illness, disability or absence from the State of Hawaii, or for any other reason, the remaining Directors, even if less than a quorum, may fill the vacancy by the affirmative vote of a majority of all remaining Directors and elect a replacement Director in accordance with the composition of the Board of Directors as required by Article V of the Articles of Incorporation and Sections 3.1 and 3.2 of this Article.

SECTION 3.4. Meetings. The Board of Directors may hold regular or special meetings at the principal office of the Corporation or such other place within or without the State of Hawaii as may be designated by the Board of Directors. Meetings may be called by the Presiding Officer of the Board, or twenty percent (20%) of the Directors. Unless otherwise directed by the Board, regular meetings shall be held bimonthly, with each year’s scheduled regular meetings set in advance the prior year.

SECTION 3.5. Who May Be Present at Meetings. Unless otherwise determined by a vote of the Board of Directors, the meetings of the Board of Directors shall be open to the public and guests invited by the President or in the absence of the President, by the Vice-President next in order. The Board of Directors in its discretion may vote to hold a closed meeting to meet with its attorney, to vote on matters relating to employees of the Corporation and to vote or discuss such other matters that by their sensitivity or because of legal requirements cannot be publicly discussed or voted upon.

SECTION 3.6. Telephonic And Video Conference Meetings. Any meeting, whether regular or special, of the Board of Directors may be held using telephone or video tele-conference or similar

communications equipment, provided, however, that all Directors participating in the meeting are able simultaneously to hear each other. Participation in a meeting via telephone or video teleconference or similar communications equipment shall constitute the presence of the Director at the meeting.

SECTION 3.7. Notice of Meetings. Regular meetings of the Board of Directors may be held without notice of the date, time, place, or purpose of the meeting. Special meetings shall be preceded by at least two (2) days written notice of the date, time, and place of meeting. Such notice shall be given by or at the direction of the Presiding Officer of the Board or other persons calling the meeting and shall be delivered personally, by facsimile, by mail, or by electronic mail, to each Director. If notice is sent by mail, facsimile or electronic mail, such notice shall be deemed to be delivered upon transmission to the Director or when deposited in the United States mail, postage prepaid and addressed to the Director at the address last reported by such Director to the Corporation. Any Director may waive notice of any meeting provided such waiver is made in writing, signed by the Director entitled to the notice, and filed with the minutes or corporate records. If a Director attends a meeting that he did not receive notice of, he waives the right to object to such meeting unless he objects at the beginning of the meeting. If a Director votes on a matter that he did not receive notice of, he waives the right to object to the vote on such matter if he votes on the matter.

SECTION 3.8. Quorum. The presence of a majority of the Directors then in office or three (3) Directors, whichever is greater, shall constitute a quorum to transact business, and, in order to be valid, any act or business must receive the approval of a majority of such quorum unless otherwise provided in these bylaws.

SECTION 3.9. Adjournment. In the absence of a quorum at a meeting duly called, the Presiding Officer of the Board or a majority of the Directors present may adjourn the meeting from time to time without further notice, and may convene or reconvene the meeting when a quorum shall be present.

SECTION 3.10. Action by Consent. Any action required or permitted to be taken at any meeting of the Board of Directors or a committee may be taken without meeting if all of the directors or all the committee members consent in writing to the action. The consent may be signed at any time before or after the intended effective date of the action. The consent shall be filed with the minutes of the Board of Directors meetings or committee meetings and shall have the same effect as a unanimous vote. The requirement of a writing is satisfied if the consent is submitted by e-mail to the Secretary or his or her designee in conformance with Chapter 489E, Hawaii Revised Statutes, the Uniform Electronic Transactions Act.

SECTION 3.11. No Proxies. Voting by proxy shall not be permitted at any meeting of the Board of Directors or of any committees or bodies created by the Board of Directors.

SECTION 3.12. Powers. The Board of Directors shall manage the property and business of the Corporation and shall have and may exercise all of the powers of the Corporation. The Board of Directors shall be responsible for establishing policies and guidelines for hiring and compensation of employees; however, from time to time they may delegate this duty. The Board shall be responsible

for making overall policy decisions concerning the business of the Corporation and the manner in which it carries out its exempt purposes.

SECTION 3.13. Resignation. Any Director may resign at any time by delivering written notice to the President or the Secretary of the Board.

SECTION 3.14. Removal.

- (a) Any Director who fails to attend two-thirds (2/3) of regular Board meetings during the fiscal year of the Corporation, with or without excuse, may be removed by a majority of the voting Directors then in office.
- (b) Any Director may be removed from office without cause by the vote of two-thirds (2/3) of the voting Directors then in office.

SECTION 3.15. Compensation. The Board of Directors shall not receive any compensation for their services, but may be reimbursed for reasonable expenses.

SECTION 3.16. Procedure. The Board of Directors shall fix its own rules of procedure which shall not be inconsistent with these By-Laws.

SECTION 3.17. Service on Board Committees. Each Director shall serve on at least one permanent or standing committee of the Board. A refusal to serve on at least one permanent or standing committee of the Board may be grounds for removal pursuant to Section 3.14.

ARTICLE IV

OFFICERS AND MANAGEMENT

SECTION 4.1. Appointment, Term and Removal. The Officers of the Corporation shall be a President, one or more Vice Presidents, a Secretary, a Treasurer, an Executive Director, and in addition thereto, in the discretion of the Board of Directors, one or more Assistant Secretaries, one or more Assistant Treasurers, and such other Officers, with such duties, as the Board of Directors may from time to time determine. The Officers shall be elected annually by the Board of Directors at its annual meeting and shall hold office at the pleasure of the Board of Directors until the next annual meeting and thereafter until their respective successors shall be duly elected and qualified. Any person may hold more than one (1) office, but there shall, at all times, be at least two (2) persons serving as Officers of the Corporation. The Board of Directors may, in its discretion, from time to time limit or enlarge the duties and powers of any officer appointed by it.

SECTION 4.2. President. The President shall preside at all meetings of the Board of Directors and shall have the power to sign contracts, notes, minutes of meetings, and all other instruments approved by the Board of Directors. The President may call annual and special meetings of the Directors as provided by these By-Laws, and shall perform other duties associated with the office.

SECTION 4.3. Vice President. The Vice President shall, in such order as the Board of Directors

shall determine if there is more than one Vice President, perform all of the duties and exercise all of the powers of the President provided by these By-Laws or otherwise, during the absence or disability of the President or whenever the office of President shall be vacant, and shall perform all other duties assigned to him, her or them (if more than one Vice-President is elected) by the Board of Directors or the President. The Board of Directors may designate one of the Vice Presidents (if more than one) as First Vice President and the Vice President so designated shall be first in order to perform the duties and exercise the power of the President in the absence of that officer.

SECTION 4.4. Secretary. The Secretary shall:

- (a) Prepare and keep the minutes of the proceedings of the Board of Directors in one or more books provided for that purpose;
- (b) See that all notices are duly given in accordance with the provisions of these By-Laws or as required by law;
- (c) Distribute copies of the minutes and agenda to the Board of Directors;
- (d) File any certificate, report, or document required by local, state, or federal law;
- (e) Serve as the custodian of the corporate records;
- (f) Be responsible for maintaining and authenticating records of the Corporation; and
- (g) In general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to the Secretary by the President or by the Board of Directors.

SECTION 4.5. Treasurer. The Treasurer shall:

- (a) Have charge and custody of and be responsible for all funds and securities of the Corporation;
- (b) Receive and receipts for monies due and payable to the Corporation from any source whatsoever, and deposit all such monies in the name of the Corporation in such banks, trust companies, or other depositories as shall be selected in accordance with these By-Laws;
- (c) Assist in the preparation of financial reports and make financial information available to the Board of Directors and the public; and
- (d) In general perform all of the duties incident to the office of Treasurer and such other duties from time to time may be assigned to the Treasurer by the President or by the Board.

SECTION 4.6. Assistant Secretary and Assistant Treasurer. The Assistant Secretary or Assistant Secretaries and the Assistant Treasurer or Assistant Treasurers, if appointed, shall, in such order as the Board of Directors may determine, perform all of the duties and exercise all of the powers of the Secretary and Treasurer, respectively, during the absence or disability of, and in the event of a vacancy in the office of the Secretary or Treasurer, respectively, and shall perform all of the duties assigned to him, her or them by the President, the Secretary in the case of Assistant Secretaries, the Treasurer in the case of Assistant Treasurers, or the Board of Directors.

SECTION 4.7. Executive Director. There shall be an Executive Director of the Corporation who shall have general charge and supervision of the Corporation. The Executive Director shall perform such other duties as are incident to the office or are required by the Board of Directors. The

Executive Director shall be an ex-officio, non-voting member of the Board of Directors.

SECTION 4.8. Absence of Officers. In the absence or disability of the President and Vice President or Vice Presidents, if more than one, the duties of the President shall be performed by such persons as may be designated for such purpose by the Board of Directors. In the absence or disability of the Secretary and of the Assistant Secretary, or Assistant Secretaries if more than one, or of the Treasurer and the Assistant Treasurer, or Assistant Treasurers if more than one, the duties of the Secretary or of the Treasurer, as the case maybe, shall be performed by such person or persons as may be designated for such purpose by the Board of Directors.

SECTION 4.9. Removals and Vacancies. The Board of Directors may at any time, with or without cause, remove from office any Officer or discharge from employment any employee or agent hired by the Corporation or by any person under authority delegated by the Corporation. The Board of Directors may elect a successor for any Officer whose office becomes vacant for any reason.

SECTION 4.10. Resignation. Any officer may resign at any time by delivering written notice to the President or the Secretary of the Board.

ARTICLE V

COMMITTEES

SECTION 5.1. Committees. The Board of Directors may create and appoint standing or ad hoc committees of any kind as the business of the Corporation may require and define the authority and duties of such committees, except that such committees shall not have such powers as are reserved to the Board of Directors by statute or otherwise. The President shall appoint all committee chairs and members of the committees subject to confirmation by the Board of Directors, unless otherwise provided in this Article.

SECTION 5.2. Committee Membership and Terms.

- (a) Membership on Permanent Committees of the Corporation shall be limited to the then serving Directors. Membership on Ad Hoc Committees of the Corporation shall be chaired by a then serving Director and made up of then serving Directors. Each committee, whether Permanent or Ad Hoc, shall be composed of at least three members, including the chair person. Members appointed to each committee shall serve a term of three years with the terms of committee members staggered to the extent feasible. A Director shall not serve more than two consecutive terms on any committee.
- (b) Any Director who fails to attend two thirds 2/3 of regular committee meetings, with or without excuse, may be removed from the committee by the Board President.
- (c) In addition to such Members, each committee may also invite non-board members to serve as advisors on any committee, Permanent or Ad Hoc, and such non-board

members may participate in discussions and provide advice, but may not vote on any matters before the committee. Such advisors may be removed by the chair of committee at any time. Advisors shall be appointed based on their expertise that the committee considers, and/or their representation of stakeholders in the community.

SECTION 5.3. Committee Meetings. The committees of the Board of Directors shall hold public meetings and keep meeting minutes to conduct the business of such committees to the extent feasible and in keeping with the purposes of the Corporation and the requirements of State and Federal law.

SECTION 5.4. Executive Committee. The Officers, Chairpersons of the Permanent Committees, Chairpersons of the Ad Hoc Committees and Immediate Past President shall serve as the members of the Executive Committee. The President of the Board of Directors shall serve as the chair of the Executive Committee. The Executive Director shall also serve as a non-voting member of the Executive Committee. The Executive Committee shall conduct the annual appraisal of the performance of the Executive Director and report the results of such appraisal to the Board. The Executive Committee shall perform such functions and duties and shall have such powers and authority as determined from time to time by the Board of Directors. The Executive Committee shall oversee and be responsible for issues relating to finance, governance and human resources. The Executive Committee, unless otherwise directed by the Board, shall meet at least monthly.

SECTION 5.5. Technical Infrastructure and Standards Committee. There shall be a permanent Technical Infrastructure Committee consisting of at least three (3) members, all of whom shall be Directors of the Corporation. The President of the Corporation shall appoint the chair of the Committee. The duties of the Committee shall include development of the technical infrastructure and HIT plan for the statewide Hawaii health information exchange; development of data exchange standards; development of a plan to interface the Hawaii health information exchange with the federal health information exchange or other governmental or private exchanges; coordination with the State HIT coordinator; participation in the development of the State HIT Strategic Plan under ARRA; and other technical issues relating to the purpose of the Hawaii Health Information Exchange. The Executive Director shall be an ex-officio, non-voting member of the Committee.

SECTION 5.6. Audit Committee. If there is an annual audit, then there shall be a permanent Audit Committee consisting of three (3) members, all of whom shall be Directors of the Corporation. The President of the Corporation shall appoint the chair of the Committee. The duties of the Audit Committee shall include review of the annual audit of the Corporation, review of the annual audit, selection of the auditor, and other matters relating to the audit of the Corporation. The Board may assign such other duties to the Audit Committee.

SECTION 5.7. Governance Committee. There shall be a permanent Governance Committee consisting of at least three (3) members, all of whom shall be Directors of the Corporation. The President of the Corporation shall appoint the chair of the Committee. The duties of the Governance Committee shall include nomination of new officers and directors; recommendations regarding the removal of any Officer or Director of the Corporation; periodic review and proposal of amendments of the By-Laws and Articles of Incorporation; periodic review and proposal of

amendments of the policies and procedures of the Board; periodic self assessments of the Board and Corporation; developing and reviewing a compliance plan and policies; developing and maintaining a continuing education program for the Board; periodic review and revision of the conflicts policy of the Corporation; periodic review and revision of the organizational chart of the Corporation; planning of Board retreats; and such other duties as are assigned by the Board to the Committee. The Governance Committee shall serve as the Board designated entity to receive any compliance complaints. The Executive Director shall be an ex-officio, non-voting member of the Committee.

SECTION 5.8. Legal Policy Committee. There shall be a permanent Legal Policy Committee consisting of at least three (3) members, all of whom shall be Directors of the Corporation. The President of the Corporation shall appoint the chair of the Committee. The duties of the Legal Policy Committee shall include developing and reviewing contract and grant procedures and policies; coordinating the monitoring of all contracts and grants with the Executive Director and staff of the Corporation; negotiating and analyzing contracts and grants in coordination with the Executive Director and staff; investigating and reporting any contract breaches or grant violations to the Board and negotiating any resolution of such breaches or violations; and such other duties as are assigned by the Board to the Committee. The Executive Director shall be an ex-officio, non-voting member of the Committee.

SECTION 5.9. Finance Committee. There shall be a permanent Finance Committee consisting of at least three (3) members, all of whom shall be Directors of the Corporation. The Treasurer of the Corporation shall serve as Chair of the Finance Committee. The duties of the Finance Committee shall include developing and reviewing fiscal procedures and policies; reviewing the annual budget of the Corporation and making recommendations about the budget to the Board; developing a plan to transition from federal and/or state funding to other funding sources to sustain the Corporation; and reporting periodically on the financial status of the Corporation to the Board. The Board may assign such other duties from time to time to the Finance Committee. The Executive Director shall be an ex-officio, non-voting member of the Committee.

SECTION 5.10. Data Access and Management Committee. There shall be a permanent Data Access and Management Committee consisting of at least three (3) members, all of whom shall be Directors of the Corporation. The President of the Corporation shall appoint the chair of the Committee. The duties of the Data Access and Management Committee shall include developing and reviewing all legal policies including but not limited to the privacy policy, security policy, and the data access policy of the Corporation; developing, negotiating and approving data trust agreements, such as data sharing or data use agreements and policies and procedures that pertain to such agreements; developing and reviewing data breach procedures and policies; developing and reviewing records management and electronic content management policies and procedures; serving as the data access committee to handle requests for access to the Corporation's healthcare data and information through data trust agreements; coordination with the State HIT coordinator; participation in the development of the State HIT Strategic Plan under ARRA; and reporting to the Board any data breaches. The Board may from time to time assign such other duties and functions to the Data Access and Management Committee as deemed appropriate. The Executive Director shall be an ex-officio, non-voting member of the Committee.

ARTICLE VI

FINANCIAL MATTERS

SECTION 6.1. Budget. There shall be an annual budget of the Corporation which shall be presented to the Board for approval before the start of each fiscal year by the Treasurer. The professional staff of the Corporation shall prepare the budget for review by the Treasurer. The Board shall have the power to approve the budget.

SECTION 6.2. Annual Financial Report. The Executive Director of the Corporation shall make an annual report on the financial status of the Corporation within 60 days of the close of each fiscal year.

SECTION 6.3. Annual Audit. There shall be an annual audit of the Corporation at the discretion of the Board of Directors.

SECTION 6.4. Accounting Year. The accounting year of the Corporation shall be a fiscal year ending on June 30 or such other period as may from time to time be established by the Board of Directors.

SECTION 6.5. Contracts. The Board of Directors may by general or special resolution authorize the President, the Executive Director, and/or any other Officer or Officers of the Corporation to enter into any contract or to execute and deliver any document, instrument, or writing of any nature in the name of and on behalf of the Corporation, and such authority may be general or confined to specific instances.

SECTION 6.6. Checks, etc. All checks, letters of credit, drafts, or orders for the payment of money, notes, or other evidences of indebtedness issued in the name of the Corporation shall be in accordance with the policy adopted by the corporation.

SECTION 6.7. Facsimile Signatures. The Board may from time to time by resolution, provide for the execution of any corporate instrument or document, including, but not limited to checks, letters of credit, drafts, and other orders for the payment of money, by a mechanical device or machine or by the use of facsimile signatures under such terms and conditions as shall be set forth in any such resolution.

SECTION 6.8. Funds. All funds of the Corporation shall be deposited from time to time to the credit of the Corporation in such banks, trust companies, or other depositories as the Board of Directors may select.

SECTION 6.9. Loans. No loans shall be made by the Corporation to its Directors, Officers, employees or agents.

SECTION 6.10. Gifts and Contributions. The Treasurer may accept on behalf of the Corporation any contribution, gift, bequest, or devise as may be consistent with the established purposes of the

Corporation and as may be permitted by any applicable local, state, or federal law.

ARTICLE VII

BOOKS AND RECORDS

SECTION 7.1. Corporate Records. The Corporation shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of the Board of Directors, and committees having any of the authority of the Board of Directors and a record of all actions taken by the Board of Directors without a meeting. The Corporation shall keep a copy of the following records at its principal office:

- (a) Articles of Incorporation and all amendments currently in effect;
- (b) By-Laws and all amendments currently in effect;
- (c) Annual financial statements for the past three (3) years;
- (d) A list of the names and addresses of its current Directors and Officers;
- (e) Minutes of the Corporation and its committees; and
- (f) The most recent annual report filed with the Director of the Department of Commerce and Consumer Affairs.

SECTION 7.2. Inspection of Corporate Records. The books and records of the Corporation, including, but not limited to, the corporate records described in Section 7.1, shall be open to inspection upon written demand of any Director, at any reasonable time, and for a purpose reasonably related to his or her interests as a Director. Demand of inspection other than at a meeting shall be made in writing upon the President, the Secretary, the Executive Director, or any other Officer designated by the Board of Directors.

ARTICLE VIII

INDEMNIFICATION

SECTION 8.1 Indemnification. Subject to the provisions of Hawaii Revised Statutes (“HRS”) Sections 414D-159 through 414D-167, as amended, the Corporation shall, to the fullest extent legally permissible, indemnify each person who is or who has served at any time as an Officer, Director, employee, or agent of the Corporation against all expenses and liabilities, including without limitation, attorneys’ fees, judgments, fines, excise taxes, penalties, and settlement payments, reasonably incurred by or imposed upon such person in connection with any threatened, pending, or completed action, suit, or proceeding in which he or she may become involved by reason of his or her service in such capacity; provided that no indemnification shall be provided for any such person with respect to any matter as to which he or she shall have been finally adjudicated in any proceeding not to have acted in good faith in the reasonable belief that such action was in the best interest of the Corporation; and further provided that any compromise or settlement payment shall be approved by a majority vote of a quorum of Directors who are not at that time parties to the proceeding.

SECTION 8.2. Scope of Indemnification. The indemnification provided hereunder shall inure to the benefit of the heirs, executors, and administrators of persons entitled to indemnification hereunder. The right of indemnification under this provision shall be in addition to and not exclusive of all other rights to which any person may be entitled.

SECTION 8.3. Insurance. The Corporation shall purchase and maintain insurance on behalf of any person who is or was a Director, Officer, employee, or agent of the Corporation against any liability asserted against or incurred by the person in such capacity or arising out of the person's status as a Director, Officer, employee, or agent, whether or not the Corporation would have the power to indemnify the person against such liability under the provisions of HRS Section 414D-160 or 414D-161, as amended. Any such insurance may be procured from any insurance company designated by the Board of Directors.

ARTICLE IX

AMENDMENT TO BY-LAWS

The By-Laws, and every part thereof, may from time to time and at any time, be amended, altered, repealed, and new or additional By-Laws may be adopted, by an affirmative vote of the Board of Directors.

ARTICLE X

CONFLICTS OF INTEREST POLICY

The Corporation shall adopt a conflict of interests policy.

CERTIFICATION

These Second Amended and Restated By-Laws were approved at a meeting of the Board of Directors by a majority vote on July 20, 2011.

Certified by:



BY:
Secretary of the Corporation

July 20, 2011
Date