

<b>TITLE: Participating Entity Suspension, Termination and Reinstatement</b>	
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### 1. Purpose

This policy describes the conditions under which participation in the Hawai'i HIE's Health eNet system ("Health eNet", the "System") by a Participating Entity may be terminated, suspended or reinstated.

### 2. Scope

This policy applies to all Health eNet Participants. This policy pertains to the terms of Data Sharing Agreements (DSAs) and Participation Agreements (PAs) between the Hawai'i HIE and Participants providing for and governing Participants' use of the Health eNet.

### 3. Definitions

**Cause.** Violation of the terms and conditions of the DSA and any other contracts between the Hawai'i HIE and a Participant pertaining to use of the Health eNet, Hawai'i HIE operational policies, or laws (including but not limited to HIPAA regulations) applicable to use of the Health eNet.

**Data Sharing Agreement (DSA) / Participation Agreement (PA).** The written agreement made by and between Hawai'i HIE and each Participating Entity, which sets forth the terms and conditions covering the operation of Hawai'i HIE and the rights and responsibilities of the Participants and Hawai'i HIE. DSAs must be used if a Participant will contribute data to the Health eNet Community Health Record (CHR).

**Participant, Participating Entity.** An organization or other entity that has entered into a written agreement with the Hawai'i HIE to act as a data contributor, data recipient or both – utilizing one or more of the Hawai'i HIE's information-exchange service lines. A Participating Entity must meet the requirements for participating with the Hawaii HIE set forth in the Hawai'i HIE's Operational Policies and Procedures.

**Party (to a DSA/PA).** The Parties to a DSA/PA are the Hawai'i HIE and a Participant.

**Reinstatement.** Reactivation of a Participant's and its Authorized Users' Health eNet access rights.

**Suspension (of a Participating Entity).** Temporary deactivation of a Participant's Authorized Users' Health eNet access rights, and/or temporary deactivation of a Participant's ability to contribute data to the Health eNet, while the DSA/PA between the Hawai'i HIE and the Participant remains in effect.

**Termination (of a Participating Entity).** Cancellation of the DSA/PA between the Hawai'i HIE and a Participating Entity, and associated deactivation of that entity's Authorized Users' Health eNet access rights. In the event of termination, user accounts associated with the terminated Participant shall be deactivated by the Hawai'i HIE system administrator.

#### 4. Policy and Procedures

A Health eNet Participant may voluntarily terminate its right to participate in the System. Furthermore, the Hawai'i HIE has the right to suspend, terminate or reinstate a Participant's Health eNet participation.

**4.1. Suspension of Participation.** The Hawai'i HIE may suspend, for a length of time Hawai'i HIE sees fit, a Participant's use of or connection to the Health eNet, and/or temporarily deactivate a Participant's ability to contribute data to the Health eNet at any time, with or without cause, for a length of time determined by Hawaii HIE. Please see Appendix A for examples of events and conditions that may result in suspension of Health eNet participation.

Procedures
<ol style="list-style-type: none"><li>1. The Hawai'i HIE determines necessity of Participant suspension of access to, and/or contribution of data to the Health eNet, e.g. due to:<ul style="list-style-type: none"><li>• Participant's non-compliance with the Hawaii HIE's participation requirements, per the Hawai'i HIE's <i>Participating Entity Registration and Compliance Requirements</i> (HEN-003) Operational Policy and Procedures</li><li>• Investigative or other incident response activities involving or affecting Participant</li><li>• Non-payment of Health eNet usage fees by Participant</li></ul></li></ol>

<ul style="list-style-type: none"> <li>• Criminal judgment or regulatory finding against Participant</li> </ul> <p>Based on the reason for suspension, the Hawai'i HIE may suspend access to one, multiple or all Health eNet service lines utilized by a Participant.</p>
<p>2. Prior to suspending access privileges for a Participant's Authorized Users, the Hawai'i HIE will notify Participant's Primary Point of Contact of the suspension, unless it is not practicable to do so, or required not to do so, e.g. in the event law enforcement officials formally request suspension of such notification.</p>
<p>3. The Hawai'i HIE's System Administrator will suspend Participant's Authorized Users' Health eNet access privileges.</p>

**4.2. Termination of Participation. Termination With Cause** The Hawai'i HIE or a Participant may terminate the DSA/PA between these Parties at any time with or without cause, pursuant to the terms of the DSA/PA, provided that the terms of the DSA/PA, including the business associate agreement, are at a minimum as stringent as the provisions of these Operational Policies and Procedures.

**4.2.1. Termination by the Hawai'i HIE**

<b>Procedures</b>
1. The Hawai'i HIE determines the necessity of participation termination.
2. The Hawai'i HIE will send a Notification of Termination in writing to the Participant's Primary Point of Contact, as follows: <ul style="list-style-type: none"> <li>• Termination Without Cause: ninety (90) days' notice</li> <li>• Termination With Cause: thirty (30) days' notice</li> </ul>
3. The Hawai'i HIE System Administrator deactivates the Participant / organization account, and all Authorized User accounts associated with Participant.

**4.2.2. Termination by Participant**

<b>Procedures</b>
1. Participant determines the necessity of participation termination.
2. Participant will send a Notification of Termination in writing to the Hawai'i HIE, as follows: <ul style="list-style-type: none"> <li>• Termination Without Cause: ninety (90) days' notice</li> <li>• Termination With Cause: thirty (30) days' notice</li> </ul>
3. The Hawai'i HIE System Administrator deactivates the Participant / organization account, and all Authorized User accounts associated with Participant.

**4.3. Access to Data in the Health eNet After Termination**

**4.3.1. Access to Data by Terminating Participant.** The Hawai'i HIE shall terminate all rights of the Participant, including the Participant's Authorized Users, to use the Health eNet, provided that the requirements for termination of participation and System access have been met, as specified in the DSA/PA.

**4.3.2. Access to Data Contributed by Terminating Participant.** The Hawai'i HIE and the terminating Participant shall cooperate to determine whether patient data contributed to the Health eNet by the terminating Participant will be retained in the System for ongoing access by other Participants, or purged from the System.

<b>Procedures</b>	
1.	<p>A. Hawai'i HIE reviews the term and termination provisions of the data sharing agreement and business associate agreement between Hawai'i HIE and Participant prior to deactivating the organization and Authorized User accounts associated with the Participant.</p> <p>B. Hawai'i HIE contacts Participant to verify the Participant's preferred disposition of the patient data in the Hawai'i HIE's possession.</p> <p>C. Participant will specify whether or not protected health information (PHI) will be retained or purged per the terms of the DSA/PA between the Hawai'i HIE and Participant.</p>
2.	<p>A. Based on the Participant's decision to retain or purge its patient data contributed to the Health eNet, the Hawai'i HIE takes one of the following actions according to the timeframe and other requirements specified in its agreement(s) with the Participant:</p> <ol style="list-style-type: none"> <li>1) Coordinates with subcontractors as necessary to purge the Participant's data stage, and any other data repositories containing patient data contributed by the Participant; or</li> <li>2) Coordinates with subcontractors as necessary to ensure retention of patient data contributed by the Participant beyond the termination date.</li> </ol> <p>B. Hawai'i HIE provides the Participant written confirmation that the purge or retention has been completed.</p>
3.	<p>In the event other Authorized Users have relied on data contributed to the Health eNet by the terminating Participant for patient care, and such data later becomes relevant to a claim brought against the Hawai'i HIE or another Authorized User but the data is no longer available in the System following the Participant's termination, the Participant shall cooperate and provide access to such data, consistent with applicable laws.</p>

**4.3.3. Access to Master Patient Index (MPI) and Audit Data.** All relevant MPI data related to data contributed by a terminating Participant, and audit data pertaining to terminating Participants' Authorized User activity, will be preserved by the Hawai'i HIE to ensure its ability to conduct, respond to, or assist Participants in conducting and responding to any audits, investigations, claims, suits or other legal or patient queries relating to the contributed data.

<b>Procedures</b>	
1.	The Hawai'i HIE terminates the Participant's access to the Health eNet.
2.	The Hawai'i HIE will maintain MPI data within the Hawai'i HIE production environment.
3.	Please refer to the following Hawai'i HIE Operational Procedures for specific requirements regarding MPI and audit data:

- *Access Management* (HEN-005)
- *Individual Rights* (HEN-008), “Accounting of Disclosures”
- *Audit* (HEN-010)
- *Incident Response & Mitigation* (HEN-012), “Incorrect or Inappropriate Use or Disclosure”

**4.4. Reinstatement of Participation.** The Hawai’i HIE may, at its discretion or upon request by a suspended or terminated Participant, review a request to reinstate Health eNet participation. Please see Appendix B for examples of cases that may be reviewed by the Hawai’i HIE for reinstatement of participation.

**4.4.1. The Hawai’i HIE’s Right to Denial of Reinstatement.** The Hawai’i HIE reserves the right to deny reinstatement of Health eNet participation for any former Participant that has been automatically terminated due to a criminal judgment or regulatory finding; or due to a breach of the terms of the DSA/PA, e.g. a breach of the Participant’s duties and responsibilities pursuant to Hawai’i HIE policies and procedures that factored into a decision by the Hawai’i HIE to terminate participation.

**4.4.2. Participant in Good Standing as a Condition of User Access Reinstatement.** The reinstatement of a given User’s access to the Health eNet will be subject to the Hawai’i HIE’s determination that both the User and the User’s Participating Entity meet the requirements of the DSA/PA and the Hawai’i HIE’s Operational Policies and Procedures.

<b>Procedures</b>
<p>1. A suspended or terminated Participant submits a written request for reinstatement to Health eNet:</p> <ul style="list-style-type: none"> <li>• A voluntarily terminated Participant may re-register for active participation, per the Hawai’i HIE’s <i>Participating Entity Registration</i> (HEN-003) Operational Policy and Procedures.</li> <li>• A suspended or terminated-with-cause Participant must submit a written request including response to cause and prevention of future incidents. The Hawai’i HIE may request documentation of evidence that a requirement for participation has been addressed.</li> <li>• A Participant seeking reinstatement will send the written request to the Hawai’i HIE via one of the following methods, to the attention of “Community Relations”:</li> </ul> <ol style="list-style-type: none"> <li>1) Written request mailed to: 900 Fort Street Mall, Suite 1305 Honolulu, HI 96813; or</li> <li>2) Secure online form on the Hawai’i HIE’s website</li> </ol>
<p>2. The Hawai’i HIE will review each request for reinstatement and determine eligibility for reinstatement based on criteria stipulated in the <i>Participating Entity Registration</i> (HEN-003) Operational Policy and Procedures.</p> <ul style="list-style-type: none"> <li>• Reinstatement upon payment of usage fees</li> <li>• Reinstatement upon compliance with participation requirements</li> <li>• Reinstatement following incident resolution</li> </ul>

3. The Hawai'i HIE will respond to request for reinstatement in writing within ten (10) business days.
- If reinstated, the Participant's Health eNet organization and its Authorized Users' access privileges will be reactivated.
  - If a Participant is denied reinstatement yet remains eligible to reapply, the Participant may address the ongoing cause(s) for termination then re-register for participation.

**5. Revision History**

<b>Revision Date</b>	<b>Revision Type*</b>	<b>Author(s)</b>	<b>Revision Rationale, Description</b>	<b>Approved by</b>
Sept. 25, 2013	New	Legal/Policy Committee (policy sub-committee)	Initial version of policy	Hawai'i HIE Board of Directors
Oct. 21, 2015	Amendment	Legal Policy Committee	Table of contents, section numbering and procedures added; existing definitions and policy sections edited to reflect current Health eNet services and operations	Hawai'i HIE Board of Directors

\* Revision Type options = New, Amendment, Minor Amendment, Consolidation (i.e. merging of multiple policies)

## Appendix A

(Revised July 2, 2015)

### Examples of Events and Conditions That May Result in Suspension of Participation

Events and conditions during/under which the Hawai'i HIE may suspend all or a portion of a Participant's use of or connection to the Health eNet include, but are not limited to the following:

- **Suspension Due to Non-Compliance with Participation Requirements.** The Hawai'i HIE may suspend a Participant's use of or connection to the Health eNet if the Hawai'i HIE suspects or has determined that the Participant no longer meets one or more criteria specified in the Hawai'i HIE's *Participating Entity Registration* (HEN-003) Operational Policy and Procedures, including, but not limited to, lapse or loss of state licensure to conduct business, practice healthcare or provide health insurance.
- **Suspension During Incident Response.** The Hawai'i HIE may, per the provisions of its *Incident Response and Mitigation* (HEN-012) and *Access Management* (HEN-005) Operational Policies and Procedures, suspend the Health eNet access rights of a Participant's individual Authorized Users or all use of the Health eNet by the Participant, as necessary to respond to and mitigate the effects of a potential or substantiated adverse event, regardless of any fault on the part of the Participant.
- **Suspension Due to Non-Payment of Usage Fees.** In the event a Participant fails to timely pay in full all Health eNet usage fees (including any late payment fees) owed to the Hawai'i HIE by Participant within ten (10) days of delivery of written demand, the Hawai'i HIE may immediately suspend Participant and Participant's Authorized Users from using or connecting to the Health eNet during such period of non-payment.
- **Suspension Due to Criminal Judgment or Regulatory Finding.** The Hawai'i HIE may suspend Participant's use of or connection to the Health eNet in the event that a court of competent jurisdiction enters a criminal judgment against the Participant pertaining to its obligations in the Data Sharing Agreement (DSA) / Participation Agreement (PA), or a government regulatory agency makes a finding of fraud or violation of laws or regulations that pertains to the obligations of the Participant under the DSA/PA.

## Appendix B

(Revised July 2, 2015)

### Examples of Cases for Reinstatement of Participation

Cases that may be reviewed by the Hawai'i HIE for reinstatement of participation include, but are not limited to the following:

- **Reinstatement Following Voluntary Termination.** In the event participation in the Health eNet has been voluntarily terminated by a Participant, the former Participant may re-apply for participation in the System, as provided for in the Hawai'i HIE's *Participating Entity Registration* (HEN-003) Operational Policy and Procedures.
- **Reinstatement Upon Compliance with Participation Requirements.** In the event participation has been suspended due to a Participant not meeting one or more criteria specified in the *Participating Entity Registration* (HEN-003) Operational Policy and Procedures, the Hawai'i HIE may reinstate a Participant and its Users' System access rights upon the Hawai'i HIE's determination that the Participant is in compliance with the *Participating Entity Registration* (HEN-003) requirements.
- **Reinstatement Following Incident Response.** In the event participation in the Health eNet has been suspended due to incident response activities, as described above in this policy, the Hawai'i HIE may reinstate a Participant's and its Authorized Users' System access privileges upon completion of such activities, provided that participation is not terminated, as described above in this Operational Policy and Procedure.
- **Reinstatement Upon Payment of Usage Fees.** In the event participation in the Health eNet has been suspended due to non-payment of Health eNet usage fees, as described above in this Operational Policy and Procedure, the Hawai'i HIE may reinstate a Participant's and its Users' System access rights upon payment in full of all outstanding usage fees, provided that the Participant continues to meet all other requirements of participation and use of the System.