

4.203 Opt-Out Information Procedure

Procedure Summary

This procedure provides the mechanism and guidelines for an individual to opt-out, either completely or partially from the AeHN HIE.

Purpose

This procedure is intended to provide individuals with the reasonable opportunity and capability to make informed decisions about the collection, use and disclosure of their individually identifiable health information, and to opt-out of the HIE as permitted under Alaska law.

Scope/Applicability

The following rules apply to Participants who are accessing the HIE, and the access, use and disclosure of protected health information by Participants through the AeHN Health Information Exchange ("HIE").

This does not apply to DSM users.

Regulatory Category, Type, Legal Regulatory Reference

AS 18.23.310

Procedure Authority/Enforcement

AeHN's Executive Director (ED) and Privacy and Security Officer (PSO), in collaboration with the Participants, are responsible for monitoring and enforcement of this procedure.

Related Policies & Procedures

- 2.100 Consumer Opt-Out Election Policy
- 2.101 Consumer Opt-Out Election Procedure
- 4.200 External HIE Privacy, Security & Compliance Policy

Renewal/Review

This procedure is to be reviewed annually to determine if the procedure complies with current HIPAA Privacy and Security regulations, AS 18.23.300 et seq. and other applicable Federal and State laws. In the event that significant related legal, regulatory or technological changes occur, the procedure will be reviewed and updated as needed.

Definitions

Opt-in – All patients are initially considered opt-in under Alaska law. If an individual has previously opted-out and chooses to opt-in to the AeHN HIE, their protected health information will be available through the HIE from the date upon which the opt-in is processed. Information about the individual created by a provider prior to the opt-in will not be available through AeHN.

Opt-out - If an individual chooses to opt-out of the AeHN HIE, protected health information will not be shared or visible through the HIE, with the exception of limited demographic information necessary to make sure that no health information is added to the system in the future. Limited information that is required to be reported by healthcare providers under the law will continue to be directly transmitted to the required recipient in accordance with mandatory reporting laws. Opt-out status will result in the inability to receive audit information about who has accessed the individual's record.

Partial Opt-out – If an individual chooses partial opt-out, protected health information is stored in an encrypted file and will only be accessed in an emergency, such as an emergency room visit. The emergency doctor will be given a decryption key to view the data and will be required to answer a question about why the record is being accessed. This information is stored with the health record and can be given to the individual by his or her physician or the individual can request the information regarding access by contacting AeHN.

Procedure

- I. Choice Whether to Have Information Included in the System. All individuals will have the opportunity to opt out of participating in AeHN. A request to opt out will be treated as a request for restrictions on use and disclosure of protected health information. Participants agree to approve such requests, subject to qualifications and limitations as described in the informational brochure referred to below or in these policies.
 - A. Individuals shall be afforded the opportunity to exercise this choice at the time of any service at a Participant that is a health care provider, or thereafter through a uniform "opt-out" process.
 - B. AeHN will, from time to time, furnish Participants that are health care providers with an informational brochure about the System for distribution to individuals and for use in explaining the meaning and effect of participation or opting out. Participants may customize the informational brochure as they deem appropriate to fit their circumstances, so long as AeHN does not incur any additional obligations or liabilities as a result. The brochure will also contain a link to the AeHN website where AeHN will provide an explanation of the meaning and effect of participation or opting out and a tool for opting out or revoking a prior opt-out election. The AeHN website will also include information about the current participating entities,

and the types and format of information that participants can obtain through the HIE.

- C. The brochure shall explain the System-wide scope of an opt-out or partial opt-out decision, the risks to the individual's data privacy and security if the individual participates including a list of the ways in which the information may be used, the effect and benefits of participation, and the effect and disadvantages of opting out. The brochure will explain that a Participant's policies continue to govern access, use and disclosure in all other contexts.
- D. The brochure shall state that the Participant (and other Participants) will not withhold coverage or care from an individual on the basis of that individual's choice not to have information about him or her included in the System.
- E. Participants shall furnish the brochure to individuals at the initiation of an episode of care, as determined by the Participant. Participants shall also provide for each individual the opportunity to opt-out or ask questions and note such opportunity in the individual's record. Each Participant will have one or more persons designated to answer questions about the System or about opting out or revoking a prior opt-out election.
- F. Participants may also direct individuals to the AeHN website and to AeHN, where the individual can ask additional questions and obtain additional information about participation in AeHN and opt-out options. The AeHN website will have opt-out and opt-in forms available in the form attached hereto as Appendix A and Appendix B. AeHN as a business associate of the Participants is authorized to provide information and answer individual questions about AeHN and the opt-out alternatives on behalf of Participants.
- G. Participants that provide only limited information through the System and have limited or no face-to-face contact with individuals shall provide the following information in their patient documentation as they determine necessary: a description of the System, an explanation of the right to opt out, a link to the AeHN website and a phone number individuals can use to obtain additional information about the System, insurer access, and the right to opt out. However, all Participants must provide this information if they are the primary provider for an individual. Additionally, all Participants will be listed on the AeHN website, regardless of the amount of contact with individuals.
- H. An individual's election to opt out of participation in the System shall be communicated to AeHN in the manner provided by AeHN in 2.101 Consumer Opt-Out Procedure and be of System-wide effect once so communicated and processed.
- I. Change to Prior Election. An individual may opt out or revoke a prior election to opt out at a later date. The brochures provided by Participants and information on the AeHN website should inform the individual that withdrawing a prior opt-out election will result in information that was

previously unavailable through the System becoming available to all Participants using the System.

- II. Effect of Choice. An individual who completely opts out of the System opts out as to all of his or her records made available through the System, not just with respect to a particular Participant or episode of care. The effect is System-wide. **An individual who opts out of the System for regular treatment, but allows access for emergency purposes will have information remain in the system, but will only allow access after certain emergent circumstances are presented.** An individual's election to opt out, whether made at the time of service or subsequently, will have prospective effect only and will not impact access, use and disclosure occurring before the decision is received and communicated through the System.
- III. Limited Effect of Opt-Out. A decision to opt out only affects the availability of the individual's protected health information through the System. Each Participant's policies continue to govern access, use and disclosure in all other contexts and via all other media.
- IV. Documentation. Each Participant shall document and maintain documentation that information about the System and about the ability to opt out of the System has been provided to the Participant.
- V. Participant's Choice. Participants shall develop and implement the necessary processes to allow an individual to choose not to have information about him or her included in the System. The uniform processes described in this Rule are not exclusive, and Participants may adopt additional, not inconsistent, mechanisms.
- VI. Provision of Coverage or Care. A Participant shall not withhold coverage or care from an individual on the basis of that individual's choice to opt out.
- VII. Reliance. Participants will be entitled to assume that an individual has not opted-out if the individual's protected health information is available through the System.

4.203 OPT-OUT INFORMATION PROCEDURE		
APPROVED BY: AeHN Executive Director	ADOPTED:	02/20/2013 V1
	REVISED:	06/24/2013 V2
	REVIEWED:	

Appendix B



Health Information Exchange
Patient Opt-In Form

I previously submitted a request to **Opt-Out** of the AeHN system and am now requesting my health information be made electronically accessible to authorized health care providers.

I understand that any health information about me prior to processing of this **Opt-In** notice will not be accessible to me or any provider.

For more information about the security and benefits of the HIE, please see the AeHN website at www.ak-ehealth.org.

A separate form must be filled out for each family member requesting to **Opt-In** if **Opt-Out** was previously selected.

If this form is signed by someone other than the person named below, the person signing the form hereby certifies that he/she is acting as:

(CHECK ONE) Parent Legal Guardian Other (Specify Relationship) _____ for the person named below.

Contact information for individual completing this form if other than patient (please print clearly)*

_____ I have had an opportunity to ask and receive answers to all my questions about **Opt-In** participation.

Please Type or Print Clearly. * Denotes required fields.

*Patient Name (Last):	* (First):	(MI):
Previous Names or Nicknames:	*Patient Date of Birth (mm/dd/yyyy):	*Primary Telephone Number: () -
Email:	*Sex (M/F):	Secondary Telephone Number: () -
*Address (Mailing):	* (City):	* (State): * (Zip):
*Primary Provider Name:	Facility:	Medical Record Number (MRN):

Signature of Patient

Date Signed

Notary: (Form must be notarized if not submitted via provider, clinic or hospital.)	
STATE OF _____ ; _____ JUDICIAL DISTRICT or _____ COUNTY	
The foregoing signature was acknowledged before me this _____ day of _____, by _____, the _____ of _____, as the authorized, free and voluntary act of said organization. IN WITNESS WHEREOF, I have hereunto set my hand and seal.	
_____)))
Notary Public for: _____)ss
My Commission Expires: _____)

Submit form by: fax to: 907-770-1413; or mail to: AeHN, 2440 E. Tudor Rd, PMB 1143, Anchorage, AK 99507