

Notice of HIE Data Privacy Practices

THIS NOTICE DESCRIBES HOW MEDICAL AND OTHER PROTECTED INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED IN THE HEALTH INFORMATION EXCHANGE, AND HOW YOU CAN GET ACCESS TO YOUR INFORMATION. PLEASE REVIEW IT CAREFULLY.

This Notice describes the data practices of the Alaska eHealth Network (“AeHN”) including the privacy and security measures AeHN undertakes in operating the health information exchange. **AeHN is required by State and Federal law to maintain the privacy of personal health information and other Protected Health Information. We take this obligation very seriously.**

Our Pledge Regarding Protected Information

We understand that medical information about your health is personal. We will not disclose your protected health information (PHI) or other personal information to anyone for purposes other than treatment and billing, unless the law requires us to do so. This Notice applies to all of the PHI we maintain. It describes the ways in which we may use and disclose PHI, and describes our obligations with regard to such information. Your health care provider may have different policies or Notices regarding the health care provider’s use and disclosure of your medical information. You should consult your provider’s Notice of Privacy Practices for more information about their use of PHI.

Our practices are guided by State and Federal law, as well as our policies and procedures. If any material changes are made to the AeHN policies and procedures regarding PHI, those changes are reviewed by workgroups made up of providers, consumers, HIE participants and other stakeholders. These workgroups are open to the public, and AeHN encourages interested individuals to participate. For more information about these workgroups, please check the AeHN website at: ak-ehealth.org.

What is Protected Health Information (PHI)?

Protected Health Information includes all *“individually identifiable health information”* held or transmitted by a healthcare provider or its business associate, in any form or media, whether electronic, paper, or oral.

“Individually identifiable health information” is information, including demographic data, that relates to:

- the individual’s past, present or future physical or mental health or condition,
- the provision of health care to the individual,
- the past, present, or future payment for the provision of health care to the individual, and
- the individual’s identity, or information for which there is a reasonable basis to believe it can be used to identify the individual.

Individually identifiable health information includes many common identifiers (e.g., name, address, birth date, Social Security Number).

Protected health information does not include employment records that a covered entity maintains in its capacity as an employer and certain education records subject to other federal protections. Those records and many other business records are not part of the HIE.

What PHI is stored and transmitted via the HIE?

Doctors notes, nurses notes and other data that may be in your medical chart in your provider's office are not included in the HIE. The HIE stores or transmits the minimum data set that has been defined by Alaska providers as critical to the care and treatment of patients.

The HIE maintains a minimum set of information about individuals that includes the following:

- Personal demographics (including name, birthdate, address, insurance subscription)
- Allergies (including allergies to medicine, food and environment)
- Medication lists (including past and current prescribed medications)
- Lab test results and radiology reports
- Hospital admission and discharge information
- Emergency visit information
- Healthcare provider visit information (reason for visit and any treatments)

The HIE only contains your information if your providers are participating in the HIE. It will not contain information from providers who are not Participants, or who are not connected to the HIE.

This information is stored in secure, encrypted files and is only accessible by your provider or authorized users of your provider for purposes of treatment and billing. If you are referred to another provider for specialty care, the information may also be shared with the referring provider and their authorized users.

What is a Health Information Exchange?

A Health Information Exchange (HIE) exists solely to provide a secure, safe transport for protected health information. Many providers are now using electronic health records. The HIE helps those providers with electronic health records to move PHI safely and securely replacing less secure methods used in the past such as photocopies, faxes and mailings.

For more information on electronic health records see: <http://www.healthit.gov/patients-families/government-health-it>.

AeHN operates the statewide health information exchange established through legislation found at Alaska Statutes 18.23.300 through 18.23.325. **This legislation allows for the sharing of medical information with your health care providers to improve the delivery of healthcare across Alaska, with policies and standards to safeguard the privacy and security of health information. This may save your life in an emergency, or prevent a medical error that could result in permanent damage. Alaska law limits use of your PHI to treatment and billing purposes. The only other uses are for mandatory reporting, and as required by law. The HIE will not be used for any other purposes.**

Who can access the Health Information Exchange?

Access to the HIE is limited to individuals who provide healthcare, such as physicians, nurses, pharmacists, physical therapists and others who are an integral part of your healthcare treatment. In addition, individuals and entities that help healthcare providers carry out treatment or billing may also be permitted access, such as laboratories, billing companies and other healthcare related businesses.

Only people who are involved in providing or paying for your care are authorized to access your information. AeHN has a thorough and rigorous process that entities must complete before they are permitted access to the HIE, with specific contracts, policies and procedures in place to ensure that only appropriate individuals can view the information on the HIE. These policies and procedures are described in more detail below.

How AeHN May Use/Disclose Your Protected Information

The following are some of the different ways that AeHN and Participants may use and disclose your personal health information:

For Treatment. Participants may use or disclose PHI about you to provide treatment or healthcare services. For example, your provider may access PHI through the HIE to determine if you have any allergies or medications that may result in complications prior to surgery.

For Billing. Participants may access information about you to get reimbursed for the services they provide to you, especially if the Participant provides just one part of a larger set of services. For example, after surgery, your surgeon may access the hospital discharge information in order to complete his/her billing information.

As Required by Law. AeHN and Participants will disclose medical information about you only when required to do so by federal, state or local law. In most cases, we will refer the requesting party back to one of your providers, but if required by law, we may disclose medical information to comply with an appropriate court order. Information will not be released in response to routine requests from law enforcement, government agencies or other entities. A court order or other mandatory legal requirement must compel AeHN to disclose PHI in order for it to be disclosed.

AeHN believes the law is clearly on the side of privacy and will object to any court order which it feels is outside the privacy law intentions. In addition, whenever possible, AeHN will notify the subject of the court order to allow the subject to participate in the proceedings with AeHN. In the case that the objection is lost, AeHN will again notify any affected parties that there is a pending court order which must be complied with.

How does AeHN protect your PHI?

Privacy and security are an integral part of every step that AeHN takes, whether it is part of implementing a health information exchange (HIE) in Alaska, or part of the daily operations of the organization. Through a combination of policies and procedures, and close communication with and

oversight of our technology partners, AeHN seeks to ensure the privacy and security of Alaskans' health information.

Key elements of this privacy and security plan are: (1) the Internal Privacy, Security and Compliance Policies and Procedures; (2) the External HIE Privacy, Security and Compliance Policies and Procedures; and (3) management, operational and technical controls.

AeHN is committed to providing a secure and safe environment for all PHI which is transferred through our system. To ensure this, our policies and procedures include the following requirements (this list is not exhaustive – it is a sample of the many requirements contained in the policies and procedures):

- Compliance by all Participants to privacy and security laws, regulations, policies and procedures.
- Limited access to PHI, only by authorized individuals.
- Secure storage of PHI with multiple complex passwords required for access.
- Multiple layers of technology to prevent hacking and viruses.
- Annual privacy and security training for all individuals authorized to access PHI.
- Continual monitoring and auditing of access to ensure the HIE is appropriately used.
- Rapid breach reporting, investigation and response, with notification to affected individuals as required by law.
- Encryption of PHI, both stored and during transmission.
- Annual risk assessments by an independent third-party to ensure the security of PHI.

Your Rights Regarding Personal Health Information

Under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), you have a number of rights regarding your personal health information. In most cases, you should exercise these rights first with your individual provider, as AeHN is only storing and transmitting copies of the information received from your provider.

If you contact AeHN regarding your rights under HIPAA, you will be asked whether you have attempted to exercise these rights with your individual provider. If you have already contacted your provider and are unable to exercise your rights with your individual provider, you may contact AeHN to follow up on those rights.

Here is how you can exercise your rights regarding medical information AeHN maintains about you:

Right to Opt-Out of the HIE. If you wish to opt-out of the HIE, there are two levels of opt-out available:

- (1) total opt-out with no clinical information available on the system; and
- (2) partial opt-out with no clinical information available except in emergency situations.

If you choose one of these two options, you can exercise this right through forms provided at any of the Participant offices, or through the AeHN website at http://ak-ehealth.org/wp-content/uploads/Patient-Opt_Outv3.pdf. The opt-out will be completed pursuant to AeHN Policy 2.100 Consumer Opt-Out

Election and related Policy 2.101, which can be found at <http://ak-ehealth.org/privacy-and-security-policies/>.

Right to Inspect and Copy. If you wish to inspect and copy your medical information, you should contact the Privacy Officer. Forms are available to request access to your medical information at <http://www.ak-ehealth.org/>.

We will make every attempt to provide the information requested within sixty (60) days, and will provide a written response with your appeal rights if we deny you access. Your request will be addressed pursuant to AeHN Policy 3.100 HIPAA Privacy and Permitted Disclosures, and AeHN Procedure 3.101 Use, Disclosure and Privacy Rights.

Right to Amend. AeHN is not the creator or primary owner of your medical information. Requests to amend information should be sent to the provider who created the record in question. AeHN will only consider a request to amend your information if the originating provider is no longer in existence. To request an amendment, your request must provide a supporting reason, be made in writing, and be submitted to the Privacy Officer. We are not required to agree to all amendments, particularly if the amendment is not supported by the other available information, or if the amendment may have a negative effect on your care.

AeHN is not a provider and does not have staff with medical training. As a result, individuals requesting amendments may be required to establish a relationship with a new provider and request the amendment through the new provider, if their previous provider is no longer available to address the amendment request. AeHN is unable to assess requests requiring changes to medical information and will deny such requests.

Forms are available to request an amendment to your medical information at <http://www.ak-ehealth.org/>. If we agree to amend the information, we will generally amend your information within 60 days of your request and will notify you when we have amended the information, or if additional time is necessary to complete your request. Your request will be addressed pursuant to AeHN Policy 3.100 HIPAA Privacy and Permitted Disclosures, and AeHN Procedure 3.101 Use, Disclosure and Privacy Rights.

Right to an Accounting of Disclosures. You have the right to request a list of disclosures. If you have requested a list of disclosures at least once in the previous twelve month period, you may be charged a reasonable fee for processing your request. Forms are available to request an accounting of disclosures at <http://www.ak-ehealth.org/>.

We will make every attempt to provide you with an accounting within sixty (60) days of your request, or we will provide you with written notice explaining why additional time is necessary, along with the date by which we will provide the accounting. Your request will be addressed pursuant to AeHN Policy 3.100 HIPAA Privacy and Permitted Disclosures, and AeHN Procedure 3.101 Use, Disclosure and Privacy Rights.

Right to a Paper Copy of This Notice. You may request a paper copy at any time. Even if you have agreed to receive this Notice electronically, you are still entitled to a paper copy of this Notice. Requests

for paper copies should be submitted to the Privacy Officer, along with an address to which the paper copy can be sent.

AeHN Policies, Procedures, Forms and Agreements

The policies, procedures and forms described in this Notice can be found at the AeHN website, at <http://www.ak-ehealth.org/>. The AeHN website also has additional information for individuals and providers, including the results of Security Risk Assessments, the Participant Agreements required prior to accessing the HIE, and the External HIE Privacy, Security and Compliance Procedures that apply to all HIE Participants.

Complaints

If you believe your privacy rights have been violated, you may file a complaint with AeHN or with the Secretary of the Department of Health and Human Services at:

<http://www.hhs.gov/ocr/privacy/hipaa/complaints/index.html>.

To file a complaint with AeHN, contact the Privacy Officer. All complaints must be submitted in writing. You will not be retaliated against or penalized for filing a complaint.

Other Uses of Medical Information

Other uses and disclosures of medical information not covered by this Notice or the laws that apply to us will be made only with your written authorization. If you provide us permission to use or disclose medical information about you, you may revoke that permission, in writing, at any time. If you revoke your permission, we will no longer use or disclose medical information about you for the reasons covered by your written authorization. You understand that we are unable to take back any disclosures we have already made with your permission, and that we are required to retain our records of the care that we provided to you.

We have the right to change our practices regarding the PHI, so long as we maintain the privacy and security of the PHI as required by law. If we make changes, we will update this Notice and will update the policies and procedures provided on our website at <http://ak-ehealth.org/>. You may receive the most recent copy of the Notice by mailing the Privacy Officer at 2440 E Tudor Rd PMB 1143, Anchorage, AK 99507, calling the Privacy Officer at 1-866-966-9030, or stopping by the Privacy Officer's office at 4000 Old Seward Highway, Suite 203, Anchorage, AK 99503.

If you have any questions about this Notice, please contact the AeHN privacy officer: Alaska eHealth Network Privacy Officer, 2440 E. Tudor Road, PMB 1143, Anchorage, AK 99507, 1-866-966-9030.