

EXCHANGING INFORMATION WITH OUT-OF-STATE PROVIDERS

Policy Number: [Enter]

Effective Date: [Enter]

I. **Policy:**

A. **Purpose**

This policy establishes guidelines to be followed by *[Organization]*'s workforce when exchanging patient health information with out-of-state providers.

B. **Policy Implementation—General Rule**

Both *[Organization]* and an out-of-state provider are subject to federal laws, such as HIPAA. However, *[Organization]* and an out-of-state provider are subject to different state laws.

[Organization] must comply with Minnesota law when disclosing patient information to an out-of-state provider. Conversely, the out-of-state provider must comply with its state law when disclosing patient information to *[Organization]*.

C. **Releasing Information to an Out-of-State Provider**

[Organization] must comply with Minnesota law when releasing information to an out-of-state provider. *[Organization]* staff should refer to policy [enter], Consent to Use and Disclose Health Information under Minnesota Law, for more information about disclosures under Minnesota law.

D. **Obtaining Information from an Out-of-State Provider**

An out-of-state provider is required to comply with its state law when it releases information to *[Organization]*. This may cause operational barriers for *[Organization]*, as the out-of-state provider may be subject to rules and requirements that *[Organization]* is not familiar with.

It is ultimately the out-of-state provider's responsibility to understand and comply with its state law when disclosing information to *[Organization]*. However, to the extent it is feasible, *[Organization]* staff should facilitate the exchange when it is in the best interests of the patient. This may involve discussing the privacy laws applicable to the out-of-state provider, assessing whether *[Organization]*'s Template Authorization Form would satisfy those requirements, and otherwise assisting the out-of-state provider with meeting its state law requirements (for example, by reviewing the out-of-state provider's consent form with the patient and facilitating signature).

Privacy Laws in Other States. While *[Organization]* and out-of-state providers are all subject to federal privacy laws, such as HIPAA, state privacy laws vary. Some states do

not have a separate state law governing the confidentiality of health information that is more restrictive (i.e., protective of patient privacy) than HIPAA. In those states, the disclosure from the out-of-state provider to [Organization] could occur in accordance with HIPAA. For example, the out-of-state provider could release the patient's records, without patient authorization, to [Organization] for treatment purposes.

However, some states have privacy laws that are more protective than HIPAA. Minnesota is one example. Out-of-state providers from these states must comply with its state law when disclosing information to [Organization] (as well as in using information received from [Organization]).

II. Procedure:

Prior to exchanging health information with out-of-state providers, [Organization] staff must comply with the following:

- A.** [Organization] staff must comply with Minnesota law when releasing information to an out-of-state provider;
- B.** When [Organization] seeks to obtain information from an out-of-state provider, staff should:
 - 1. Connect with the out-of-state provider to discuss the state privacy requirements applicable to the out-of-state provider;
 - 2. Assess whether disclosure is permitted without patient consent or authorization;
 - 3. If consent or authorization is required, assess whether [Organization] has a signed Authorization form on file that would satisfy the out-of-state provider's state law; and
 - 4. Otherwise facilitate the exchange, if doing so is in the best interests of the patient.