TITLE: SUPER PROTECTED AND OTHER UNAUTHORIZED DATA POLICY	
STATUS: FINAL	EFFECTIVE DATE: 07/18/2019
VERSION: 6	PAGE: 1 OF 4

I. PURPOSE

Stringent standards are in place for the use and disclosure of Super Protected Data in accordance with the Pennsylvania Confidentiality of HIV-related Information Act, the Pennsylvania Mental Health Procedures Act, and Pennsylvania and federal laws and regulations regarding drug and alcohol abuse. This policy describes how ClinicalConnect HIE (CCHIE) will abide by the standards by not accepting data containing Super Protected Data and/or any other Unauthorized Data.

II. OVERVIEW

CCHIE will stay in compliance with state and federal laws and regulations by ensuring its Participants do not send data that includes Super Protected Data and/or any other Unauthorized Data to CCHIE because the technology for data segmentation is not available to segment such from other data within the Exchange.

III. SCOPE

This policy applies to CCHIE and its Participants

IV. DEFINITIONS

"Licensed Provider" is an organization or individual that is licensed to provide Mental Health and/or Drug and Alcohol treatment related services. An individual or facility that is generally licensed to practice medicine would not be considered a Licensed Provider for the purposes of this policy.

"Participant" is an organization that has signed a Data Exchange Agreement with CCHIE.

"Protected Health Information" or "PHI" shall have the same meaning as set forth in the Health Insurance Portability and Accountability Act (HIPAA).

"Super Protected Data" or "SPD" is defined by the Pennsylvania eHealth Partnership Authority as health information related to HIV/AIDS, mental/behavioral health, drug and alcohol abuse services and treatment administered by a licensed provider or facility.

"Out-of-Pocket, Paid-in-Full Data" (a.k.a. ARRA Self-Pay Data) is an added protection from the American Recovery & Reinvestment Act (ARRA) which permits patients to restrict disclosures of PHI to a health plan under certain conditions. This protection was mandated under 42 USC 17935 of the Health Information Technology for Economic and Clinical Health (HITECH) Act and now implemented under 45 CFR 164.522(a)(1)(vi) of the HIPAA Privacy Rule through Omnibus HIPAA Rulemaking.

V. <u>POLICY</u>

   A. Participants shall adhere to Federal and State Law when exchanging or otherwise disclosing protected health information (PHI) through CCHIE. Participants shall obtain any authorizations necessary under Federal or State Law prior to the release of PHI to an authorized recipient.

   B. Participants are responsible for ensuring the data sent to CCHIE does not contain Super Protected Data, Out-of-Pocket, Paid-in-Full Data, or other unauthorized data about a patient.

   C. Super Protected Data is defined by two conditions:

      1. Medical data containing the following information:

         i. HIV/AIDS

         ii. Mental/behavioral health

         iii. Drug and alcohol abuse.

      2. The information is created or maintained by a Licensed Provider.

   D. Out-of-Pocket, Paid-in-Full Data is defined by the following conditions:

      1. Patient explicitly requests to restrict disclosure of PHI to a health plan (for purposes of payment or healthcare operations) and follows the Participant's documented procedure for such requests.

      2. PHI pertains solely to a health care item or service in which either the patient or someone on behalf of the patient (other than the health plan) paid out-of-pocket in full.

      3. Disclosure is not otherwise required by law.

   E. Consistent with a Patient's right to opt-out, CCHIE will not attempt to limit or restrict types of information that can be accessed or disclosed through CCHIE by a Participant. Participants who have the technical capability to do so may allow patients to request that sensitive PHI be withheld from CCHIE. With the exception of Out-of-Pocket, Paid-in-Full Data, Participants without this capability shall inform

patients that the Participant cannot selectively withhold PHI from being sent to CCHIE and provide patients with the opportunity to opt-out of CCHIE.

F. Regarding Super Protected Data, it will be the responsibility of the Participant to either

   1. Not send Super Protected Data about a patient to CCHIE; or

   2. Take action to ensure the Super Protected Data about a patient is not viewable in CCHIE based on technical guidelines established by CCHIE.

G. CCHIE is not responsible for searching for Super Protected Data, Out-of-Pocket, Paid-in-Full, and any other unauthorized data about a patient which is sent to CCHIE. If CCHIE does discover Super Protected Data, Out-of-Pocket, Paid-in-Full Data, or any other unauthorized data about a patient sent to CCHIE, CCHIE will attempt to notify the submitting Participant of the incident and will coordinate with the Participant to remediate the situation.

H. CCHIE cannot be responsible for preventing Super Protected Data, Out-of-Pocket, Paid-in-Full Data, or any other unauthorized data which is sent to CCHIE from a Participant from being disclosed to authorized Participants.

VI.   RELATED POLICIES AND PROCEDURES
   - Permitted Data Use Policy
   - In Error Policy

VII.   Revision History

DATE	AUTHOR	COMMENTS
08/27/2015	Erika Jones	Creation of the policy
04/01/2017	Keith Dukes	Reviewed Policy – No Changes
07/15/2019	Keith Dukes	Addressed "Self-Pay Data" and other unauthorized disclosures
07/17/2019	Laura Mosesso	Approved Revisions
10/27/2020	Keith Dukes	Changed "Self-Pay Data" to "Out-of-Pocket, Paid-in-Full Data" and revised wording to facilitate other CCHIE services.
01/08/2021	Keith Dukes	Applied Compliance Manager edits.
01/06/2023	Keith Dukes	Reviewed policy – applied minor format updates

SPD USE CASES

1. John Doe goes to his Primary Care Physician for depression. His PCP diagnoses him with depression and prescribes him anti-depressants. –**THIS IS NOT SPD.**

2. John Doe goes to a psychiatric facility for depression. The on- duty physician diagnoses him with depression and prescribes him an anti-depressant. – **THIS IS SPD.**

3. John Doe goes to see a psychiatrist, psychologist and/or *counselor* at their independent office for depression. He is diagnosed with depression and given an anti-depressant as applicable – **THIS IS SPD.**

4. John Doe goes to the Emergency Room (ER) with an anxiety attack. The ER physician treats John for depression and prescribes an anti-depressant – **THIS IS NOT SPD.**

5. John Doe is admitted to a psychiatric facility for mental health treatment. While at the facility, John Doe has blood work done. The blood work is not related to his mental health treatment – **THIS IS NOT SPD**.

6. John Does is admitted to a psychiatric facility for mental health treatment. While at the facility John Doe contracts a virus. The facility gives John an antibiotic, however it is discovered he is allergic to the antibiotic. This is documented in his record under "allergies," – **THIS IS NOT SPD.**

7. John Doe is admitted to a behavioral treatment facility for substance abuse treatment. Blood is drawn as a part of the treatment at the facility. – **THIS IS SPD.**

8. John Doe goes to the Emergency Room due to an overdose. John Doe is treated for substance abuse – **THIS IS NOT SPD.**