

<b>TITLE: SUPER PROTECTED AND OTHER UNAUTHORIZED DATA POLICY</b>	
<b>STATUS: FINAL</b>	<b>EFFECTIVE DATE: 07/18/2019</b>
<b>VERSION: 2</b>	<b>PAGE: 1 OF 5</b>

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 will abide by the standards by not accepting data containing Super Protected Data.

II. OVERVIEW

ClinicalConnect HIE will stay in compliance with state and federal laws and regulations by ensuring its Participants do not send data that includes Super Protected Data (SPD) to the ClinicalConnect HIE Repository because the technology for data segmentation is not available to segment SPD from other data.

III. SCOPE

This policy applies to ClinicalConnect HIE 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 (including physician practice) that has signed a Data Exchange Agreement with ClinicalConnect HIE.

“Protected Health Information” or “PHI” shall have the same meaning as set forth in 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.

“Request to Restrict Disclosure of PHI to a Health Plan” or “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 by 42 USC 17935 of the HITECH Act and now required under 45 CFR 164.522(a)(1)(vi), as amended by the HIPAA Omnibus Rule.

V. POLICY

- A. Participants shall adhere to Federal and state law when exchanging protected health information (PHI) through the ClinicalConnect HIE. 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 the ClinicalConnect HIE Repository does not contain Super Protected Data, Self-Pay 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. Self-Pay 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).
  - 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, ClinicalConnect HIE will not attempt to limit or restrict types of information that can be accessed through ClinicalConnect HIE by a Participant. Participants who have the technical capability to do so may allow patients to request that sensitive PHI be withheld from the ClinicalConnect HIE. Participants without this capability shall inform patients that the Participant cannot selectively withhold PHI from the HIE and provide patients with the opportunity to opt-out of the ClinicalConnect HIE.

- F. ClinicalConnect HIE is not responsible for searching the Repository for Super Protected Data, Self-Pay Data, and any other unauthorized data about a patient. If ClinicalConnect HIE does discover Super Protected Data, Self-Pay Data, or any other unauthorized data about a patient in the Repository, it will attempt to notify the submitting Participant of the incident.
- G. It will be the responsibility of the Participant to either
1. Not send Super Protected Data, Self-Pay Data, or any other unauthorized data about a patient to ClinicalConnect HIE or
  2. Take action to ensure the Super Protected Data, Self-Pay Data, or any other unauthorized data about a patient is not viewable in the ClinicalConnect HIE Repository based on technical guidelines established by ClinicalConnect HIE.

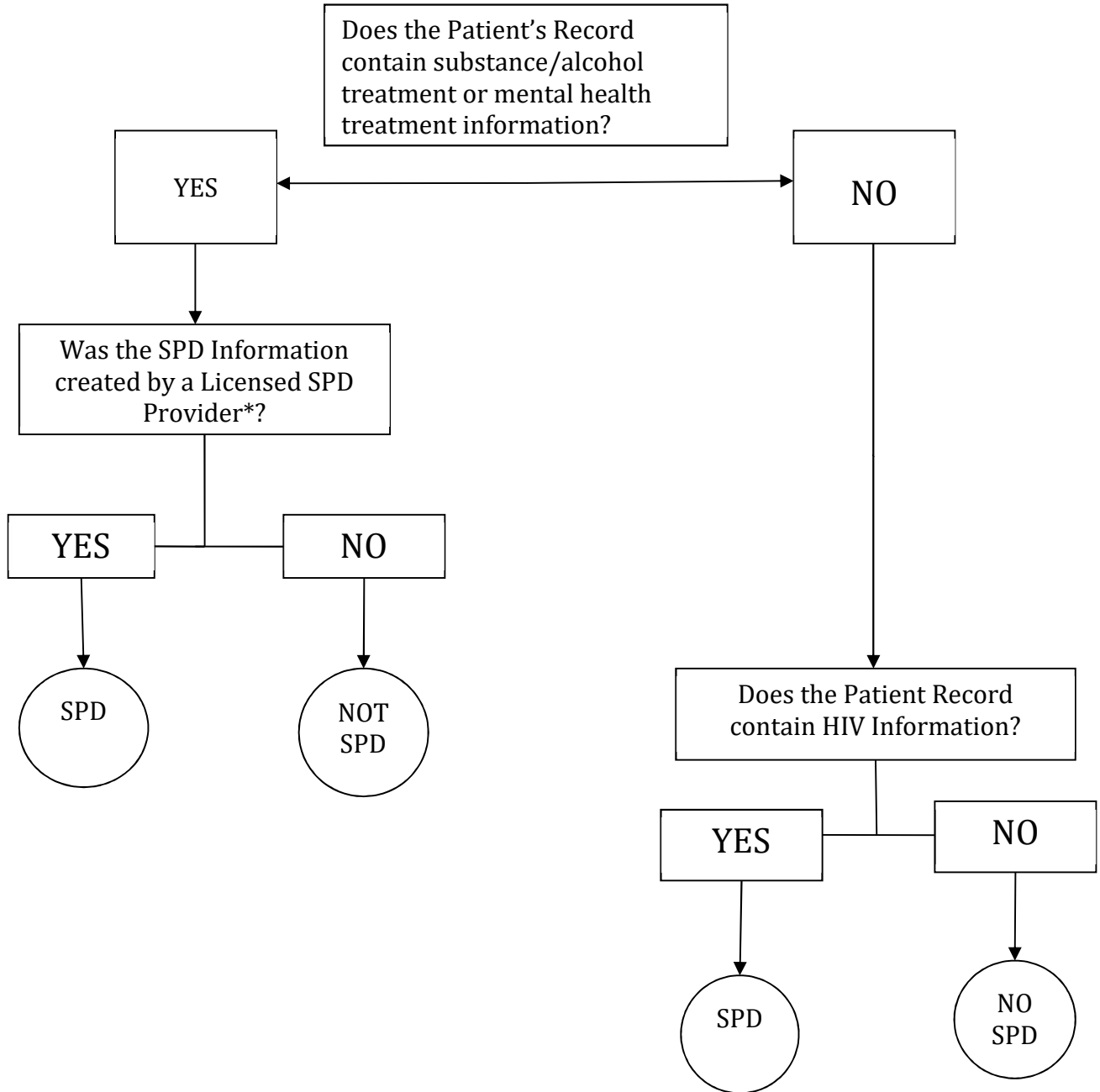
## VI. Revision History

<b>DATE</b>	<b>AUTHOR</b>	<b>COMMENTS</b>
8/27/15	Erika Jones	Creation of the policy
4/1/17	Keith Dukes	Reviewed Policy – No Changes
7/15/19	Keith Dukes	Addressed “Self-Pay Data” and other unauthorized disclosures
7/17/19	Laura Mosesso	Approved Revisions

## 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, such as Western Psych, 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 at their independent office for depression. He is diagnosed with depression and given an anti-depressant. – **THIS IS SPD**
4. John Doe goes to the Emergency Room with an anxiety attack. The ER Doctor 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**

# SPD Flowchart



\*Licensed SPD Provider as defined in the policy