

## SCHIEx POLICIES AND PROCEDURES

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Participants who have executed a SCHIEx Participation Agreement and Business Associate Agreement and have agreed to the terms and conditions stated therein must comply with the following Policies and Procedures.

A Participant's failure to comply with the Policies and Procedures stated below constitutes a breach of the SCHIEx Participation Agreement and may result in termination of the Agreement, denial of access to the SCHIEx network, or financial penalties as discussed in the SCHIEx Participation Agreement and herein.

These Policies and Procedures may be revised and updated periodically in accordance with the Participation Agreement and the SCHIEx Policy Manual (as defined below) in response to changes in applicable laws and regulations, changes in technology and standards, or other factors affecting the governance and operation of SCHIEx. Notice will be given to all Participants electronically by means of an electronic mail message sent to the electronic mail address submitted by the Participant and by notice posted on the SCHIEx website. The current version of the SCHIEx Policies and Procedures will be available on the SCHIEx website. Each Participant is responsible for ensuring it has, and is in compliance with, the most recent version of these Policies and Procedures.

As discussed in more detail below, compliance with and adherence to these Policies and Procedures will be Monitored and enforced by South Carolina Health Information Partners, Inc. ("SCHIP" or "Governing Authority"). Any suggested additions or changes to these Policies and Procedures should be submitted to the Governing Authority for consideration.

**THESE POLICIES AND PROCEDURES ARE REQUIRED FOR PARTICIPATION IN SCHIEX. THESE POLICIES AND PROCEDURES DO NOT SUPPLANT OR PREEMPT ANY FEDERAL AND STATE LAWS APPLICABLE TO HEALTH CARE PROVIDERS OR OTHER ENTITIES. FOLLOWING THESE POLICIES AND PROCEDURES DOES NOT PROTECT A PARTICIPANT OR ANOTHER ENTITY FROM LIABILITY UNDER APPLICABLE LAW.**

**SCHIEX IS INTENDED TO BE USED AS AN INFORMATION GATHERING TOOL TO AID HEALTH CARE PROVIDERS AND OTHER PARTICIPANTS. THE USE OF SCHIEX DOES NOT ELIMINATE A PROVIDER'S NEED TO EXERCISE PROFESSIONAL JUDGMENT IN CLINICAL DECISION MAKING. SCHIEX DOES NOT WARRANT OR GUARANTEE THE ACCURACY OR COMPLETENESS OF THE INFORMATION MADE AVAILABLE FROM PARTICIPANTS THROUGH SCHIEX.**



1. **Definitions.**

Terms used in this Agreement that are specifically defined in the Health Insurance Portability and Accountability Act of 1996, as amended (“HIPAA”), or the Health Information Technology for Economic and Clinical Health Act (“HITECH”) enacted as part of the American Recovery and Reinvestment Act of 2009, and their attendant regulations and guidance, shall have the same meaning as set forth in HIPAA, unless expressly stated otherwise herein. A change to HIPAA which modifies any defined HIPAA term, or which alters the regulatory citation for the definition, shall be deemed incorporated into this Agreement.

a. **"Adapter"** means the “system” that holds a data provider’s patient demographic and clinical data, identifies that data to a statewide Record Locator Service (Enterprise Master Patient Index) and allows for a “real time” sharing of clinical information (based on role-based access controls) from disparate electronic data contained on other linked Adapters.

b. **"Audit"** shall mean a review and examination of records (including logs), and/or activities to ensure compliance with the Participation Agreement and the SCHIEEx Policy Manual and to ensure accuracy of the data transmission and conversion of data by the Adapter. This review can be manual, automated or a combination of both.

c. **"Authorization"** shall meet the requirements and have the meaning set forth at 45 CFR § 164.508(b) of the HIPAA Regulations.

d. **"Authorized User"** means an individual Participant or an individual designated to use SCHIEEx DIRECT, SCHIEEx EXCHANGE or Optional Services on behalf of the Participant. Authorized Users receive their rights to use SCHIEEx services either by registering as Participants themselves or by executing a Participant User Agreement with an organization that registers as a Participant and designates individuals who will be authorized to use the SCHIEEx services on the Participant’s behalf. For example, an Authorized User may be an individual physician who registers as a Participant. In addition, an Authorized User may be a member of that physician’s office staff designated by the physician, or any one of a number of a hospital’s employees and/or medical staff members authorized by the hospital to act as Authorized Users under the hospital’s registration as a Participant.

e. **"Clinical Viewer"** means the web-based interactive data organization and visualization dashboard application, which may be used by Participants in connection with data exchanged or obtained via SCHIEEx.

f. **"Data"** shall mean that information which is requested or sent by a Participant to another Participant through SCHIEEx. This includes, but is not limited to, PHI, de-identified data, pseudonymized data and metadata.

g. **"DURSA"** means the Data Use and Reciprocal Support Agreement. The DURSA is a comprehensive, multi-party trust agreement that will be signed by all Health Information Exchanges (NHIEs), both public and private, wishing to participate in the eHealth Exchange. The DURSA provides the legal framework governing participation in the eHealth Exchange by requiring the signatories to abide by a common set of terms and conditions. These common terms and conditions support the secure, interoperable exchange of health data between and among NHIEs across the country.

h. **"eHealth Exchange"** (formerly known as the Nationwide Health Information Network or NwHIN) shall mean a secure, nationwide, interoperable health information infrastructure that allows for the exchange of Data between and among Participants in support of the provision of health and health care services.

i. **"Electronic Protected Health Information" or "EPHI"** shall have the same meaning as the term "electronic protected health information" in 45 CFR §160.103, and shall include, without limitation, any EPHI provided by a Covered Entity or created or received by a Business Associate on behalf of a Covered Entity.

j. **"Executive Director"** means the Executive Director of SCHIP.

k. **"Governing Authority"** shall mean South Carolina Health Information Partners, Inc., a South Carolina nonprofit corporation, which is responsible for administering SCHIEx and fulfilling the roles and responsibilities described herein.

l. **"Health Care Organization" or "HCO"** means health care providers, public health agencies, payors, and entities offering patient engagement services, such as Patient Health Records.

m. **"Health Information Exchange" or "HIE"** shall mean the electronic movement of health-related information according to nationally recognized standards.

n. **"Health Information Organization" or "HIO"** means an organization that oversees and governs the exchange of health-related information among Health Care Organizations according to nationally recognized standards.

o. **"HIPAA"** means the Health Insurance Portability and Accountability Act of 1996, Public Law 104-91, as amended, and related HIPAA regulations (45 CFR. Parts 160-164).

p. **"HITECH"** means the Health Information Technology for Economic and Clinical Health Act, found in Title XIII and Title IV of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, as amended, and related regulations.

q. **"Individual"** means the person who is the subject of PHI, usually a patient, and whose PHI is transmitted by Participants via SCHIEEx, or that person's legal guardian or other legal representative.

r. **"Individually Identifiable Health Information"** means information that is a subset of health information, including demographic information collected from an individual, and is created or received by a health care provider, health plan, employer or health care clearinghouse and relates to the past, present or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present or future Payment for the provision of health care to an individual, and that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual. Individually Identifiable Health Information shall have the same meaning as the term is defined in 45 C.F.R. § 160.103.

s. **"Message"** means a mechanism for exchanging Message Content between Participants through the eHealth Exchange, which complies with the eHealth Exchange Performance and Service Specifications. Messages are intended to include all types of electronic transactions in the exchange including but not limited to requests, assertions, responses, and notifications, as well as the data or records transmitted with those transactions.

t. **"Monitor"** shall mean a review and examination of records (including logs), and/or activities to evaluate the utilization levels, efficiency and technical capabilities of SCHIEEx. This review can be manual, automated or a combination of both.

u. **"Notice"** or **"Notify"** shall mean a notice in writing sent to the appropriate Participant's representative at the address listed in the Participation Agreement, to the Governing Authority, or to an Individual, as applicable.

v. **"Optional Services"** are services that SCHIEEx may provide Participants who choose to contract and pay for such services in addition to the core services provided in SCHIEEx EXCHANGE and SCHIEEx DIRECT and covered under the terms of the Participation Agreement. Optional Services will be approved by the Governing Authority and posted on the SCHIEEx website.

w. **"Participant"** shall mean any individual or organization that is a signatory to the Participation Agreement, other than the Governing Authority. If the entity or agency within which the individual practices signs a Participant Agreement, the individual is not required to sign a separate Participation Agreement but must sign a Participant User Agreement.

x. **"Participant Member"** shall mean a member of an HIO that is a Participant of SCHIEEx. A Participant Member must execute a Participation Agreement and pay the requisite SCHIEEx fee as set forth on the Fee Schedule, but the HIO may pay the fee on behalf of its Participant Members.

y. **"Participation Agreement"** shall mean the underlying SCHIEEx Participation Agreement entered into between each Participant and SCHIEEX, which outlines the terms of the SCHIEEx services and describes the duties and responsibilities of each Participant and SCHIEEX.

z. **"Payment"** shall have the meaning set forth at 45 C.F.R. § 164.501 of the HIPAA Regulations.

aa. **"Permitted Purposes"** shall mean the following reasons for which Authorized Users may legitimately exchange Data through SCHIEEx. Permitted Purposes for SCHIEEx DIRECT include any exchange of Data related to the provision of health care to the extent permissible under all applicable law, including but not limited to Treatment, Payment, operations, public health reporting, and quality reporting. Permitted Purposes for SCHIEEx EXCHANGE are limited to the following:

- Treatment of an Individual with whom the Authorized User has a Treatment Relationship, including disease management by clinical staff;
- HIPAA permitted uses and disclosures under 45 C.F.R. § 164.512(a) - (d), (h), and (j) - (l), related to (i) an Individual with whom an Authorized User has a Treatment Relationship, or (ii) a public health initiative;
- A Participant's submission of information Required by Law, including but not limited to immunization data, quality reporting data, and communicable disease data to a state or federal agency; and
- Uses and disclosures premised on an Authorization provided by the Individual who is the subject of the Message.

bb. **"Privacy Rule"** shall mean the Standards for Privacy of Individually Identifiable Health Information and the Security Standards for the Protection of Electronic Protected Health Information, which are codified at 45 C.F.R. Parts 160 and 164, Subparts A, C, and E, and any other applicable provision of HIPAA, and any amendments thereto, including HITECH.

cc. **"Protected Health Information"** or **"PHI"** shall have the meaning given to the term under the Privacy Rule, including but not limited to, 45 C.F.R. § 160.103, and shall include, without limitation, any PHI provided by or received by a Authorized User. Unless otherwise stated in the Participation Agreement, any provision, restriction, or obligation in the Participation Agreement related to the use of PHI shall apply equally to EPHI.

dd. **"Record Locator Service"** (RLS) means the system that identifies and links patients with their data across the linked continuum of care.

ee. **"Required By Law"** shall have the meaning given to the term under the Privacy Rule including, but not limited to, 45 C.F.R. § 164.103, and any additional requirements created under HITECH.

ff. **"SCHIEEx"** means the South Carolina Health Information Exchange. SCHIEEx includes SCHIEEx EXCHANGE and SCHIEEx DIRECT.

gg. **"SCHIEEx EXCHANGE"** means the secure, standards-compliant technology and policy framework that enables the electronic discovery, query, and retrieval of key clinical Data at the point of care. SCHIEEx EXCHANGE functions such that Participants query and retrieve clinical Data directly from other Participants involved in a patient's care using standards-compliant electronic health record systems and SCHIEEx technology services. Services associated with SCHIEEx EXCHANGE include a statewide Master Patient Index, Record Locator Service, terminology standards and services, trusted uniform transport, Public Key Infrastructure certificate-based encryption and authentication, Audit/log of document transport between Participants, bi-directional exchange with the South Carolina Department of Health and Environmental Control Immunization Registry, RX (prescription) hub, access to the SCHIEEx Nationwide Health Information Network Gateway, and other services approved by the Governing Authority and posted on the SCHIEEx website from time to time.

Only eligible Participants may participate in SCHIEEx EXCHANGE. Eligible Participants include:

(1) Health care providers licensed in the State of South Carolina and providing health care services within their statutory scope of practice, including medical doctors, dentists, chiropractors, optometrists, podiatrists, pharmacists, physician assistants, and nurse practitioners.

(2) Health information organizations and entities within which eligible individuals practice, including hospitals, ambulatory surgical facilities, home health agencies, case management providers, telemonitoring providers, and pharmacies.

(3) Governmental agencies, including the South Carolina Department of Health and Environmental Control, the South Carolina Department of Mental Health, the South Carolina Department of Social Services, the South Carolina Department of Disabilities and Special Needs, and the South Carolina Department of Alcohol and Other Drug Abuse Services.

(4) Clinical staff for Managed Care Organizations (MCOs) and Medical Homes Networks (MHNs), for Treatment purposes as defined by HIPAA.

hh. **"SCHIEEx DIRECT"** means the secure, standards-compliant technology and policy framework that enables point-to-point transport of health Data via a directed Message sent from one Participant to an identified recipient. SCHIEEx DIRECT functions such that Participants directly send or "push" a user-defined Message to a known and trusted receiver using an e-mail client or web portal and SCHIEEx technology services. Services associated with SCHIEEx DIRECT include SCHIEEx DIRECT addresses, security and trust services, certificate-based

encryption and authentication, Message transport and delivery, and other services approved by the Governing Authority and posted on the SCHIEEx website from time to time.

ii. **"SCHIEEx Performance and Service Specifications"** shall refer to the SCHIEEx test approach and the SCHIEEx interface specifications contained in the SCHIEEx Policy Manual and as amended from time to time.

jj. **"SCHIEEx Policy Manual"** means the documents approved by the Governing Authority containing these Policies and Procedures, the SCHIEEx Performance and Service Specifications, the Participation Agreement, the Business Associate Agreement, and any other documents included by the Governing Authority. Each Participant is contractually bound to the contents of the SCHIEEx Policy Manual, as it may be amended. The Governing Authority shall review and may amend the SCHIEEx Policy Manual from time to time as provided in the Participation Agreement.

kk. **"SCHIEEx Policies and Procedures"** shall mean the policies and procedures adopted by the Governing Authority that describe the management and operation of, and the terms for participation in, SCHIEEx, contained herein and incorporated into the SCHIEEx Policy Manual, as they may be amended from time to time.

ll. **"Secretary"** shall mean the Secretary of the United States Department of Health and Human Services or his designee.

mm. **"Security Rule"** shall mean the Security Standards for the Protection of Electronic Protected Health Information codified at 45 C.F.R. Parts 160 and 164.

nn. **"SCHIP"** shall mean South Carolina Health Information Partners, Inc., a South Carolina nonprofit corporation.

oo. **"SCRIPTS"** shall mean the South Carolina prescription drug monitoring program, created pursuant to the South Carolina Prescription Monitoring Act, S.C. Code Ann. 44-53-1610 et seq., which requires dispensing practitioners and pharmacists to collect and report dispensing activity of all schedule II-IV controlled substances.

pp. **"System"** means SCHIEEx's internet-based, authenticated, peer-to-peer computer system and search engine for patient health, demographic, and related information that assists Authorized Users in locating Data and facilitates the Adapter of Data held by multiple Health Care Organizations with disparate health information computer applications, and which allows Authorized Users to authenticate and communicate securely over an entrusted network to provide access to and to maintain the integrity of Data.

qq. **"Treatment"** shall have the meaning set forth at 45 C.F.R. § 164.501 of the HIPAA Regulations.

rr. **"Treatment Relationship"** means a treatment relationship already in existence between an Authorized User and an Individual, a new treatment relationship in the process of being initiated between an Authorized User and an Individual, or an emergency treatment relationship formed due an Individual's emergent condition and requiring immediate treatment by an Authorized User.

2. **SCHIEx Governing Authority.**

SCHIP is the Governing Authority for SCHIEx. The Governing Authority shall have the following duties:

- a. to provide policy direction and operational guidance for the SCHIEx Executive Director who shall serve at the pleasure of the Governing Authority;
- b. to oversee the development, implementation, and operation of SCHIEx in compliance with all applicable state and federal requirements;
- c. to establish a legal and policy framework for the operation of SCHIEx;
- d. to adopt nondiscrimination and conflict of interest policies that demonstrate a commitment to open, fair, and nondiscriminatory participation in SCHIEx;
- e. to develop and implement financial policies and procedures, consistent with state and federal requirements, which provide for the financial sustainability of SCHIEx;
- f. to develop and implement privacy and security policies and procedures governing SCHIEx, consistent with state and federal law, including but not limited to the privacy provisions of the American Reinvestment and Recovery Act of 2009, the Privacy Act of 1974, the HIPAA Security Rule, the HIPAA Privacy Rule, the Federal Information Security Management Act of 2002, the Confidentiality of Alcohol and Drug Abuse Patient Records, and the U.S. Department of Health and Human Services Privacy and Security Framework Principles;
- g. to develop the necessary agreements to facilitate the secure exchange of health information through SCHIEx and among all Participants; and
- h. to encourage all applicable state agencies to participate in SCHIEx.

3. **SCHIEx Coordinating Committee.**

- a. The SCHIEx Coordinating Committee is responsible for making determinations on initial Participant membership and re-approval following suspension and termination. The Governing Authority may assign other duties and responsibilities to the Coordinating Committee as it deems necessary.

- b. The Executive Director shall report to the Coordinating Committee which applicants have applied for membership and have met the technical requirements for participation. The Executive Director shall also refer all questions regarding participation policy interpretation to the Coordinating Committee. The Coordinating Committee shall report monthly to the Governing Authority regarding membership decisions. The Coordinating Committee's decisions must be approved by the Governing Authority.

4. **Health Information Organizations.**

- a. An HIO may choose to join SCHIEx as a Participant and may facilitate the onboarding process and SCHIEx registration for any potential Participant Member that participates in the HIO. Nonetheless, each potential Participant Member must execute a Participation Agreement and pay the requisite SCHIEx fee as set forth in the Fee Schedule. An HIO may pay the Fee on behalf of its Participant Members so long as a Participant Member is not given access to SCHIEx until it has executed the Participation Agreement.
- b. An HIO that chooses to join SCHIEx as a Participant must provide the following to SCHIEX and report any changes to the reported information within five (5) business days:
  - (1) a list of all current member organizations;
  - (2) if possible, the digital signature for each of the HIO's member organizations;
  - (3) name and contact information for the HIO's Privacy Officer and Site Administrator;
  - (4) proof that the HIO is certified to conduct business in South Carolina with the South Carolina Secretary of State's Office;
  - (5) proof of an active bank account in the name of the HIO's corporate entity with either a national or South Carolina bank; and
  - (6) proof of general liability coverage.

5. **Governing Law.**

- a. Each Participant shall, at all times, comply with all applicable federal, state and local laws and regulations, including, but not limited to, laws and regulations protecting the confidentiality and security of Individually Identifiable Health Information and establishing certain privacy rights. Each Participant must comply with the HIPAA Privacy Rule and Security Rule even if Participant is not a

Covered Entity or a Business Associate and would not otherwise be required to comply with such rules.

- b. Each Participant is responsible for remaining current with all applicable laws and regulations and must ensure that it has the requisite, appropriate and necessary internal policies in place for compliance with applicable law, the HIPAA Privacy and Security Rules, the SCHIEEx Participation Agreement, and the SCHIEEx Policy Manual.
- c. Each Participant must make a good faith effort to obtain an Individual's written acknowledgement of receipt of Notice of the Participant's participation in SCHIEEx or document its efforts and failure to do so. The acknowledgement for receipt of the Notice of Privacy Practices shall comply with all applicable laws and regulations (see 45 CFR § 164.520 (c)(2)(ii)). Each Participant shall have its own policies and procedures regarding obtaining acknowledgement of an Individual's receipt of the Notice which shall be consistent with applicable laws and regulations and these Policies and Procedures.
- d. Each Participant shall designate an employee to act as the Participant's Privacy Officer. The Privacy Officer is responsible for keeping Participant informed regarding current federal and state privacy laws and regulations, developing and implementing the Participant's own policies and procedures, conducting any internal investigations in the event of a potential breach, and for reporting all breaches.

6. **Notification of Participation in SCHIEEx EXCHANGE.**

- a. Each Participant in SCHIEEx EXCHANGE shall develop and maintain a Notice to Individuals in either the Participant's Notice of Privacy Practices, which shall meet the content requirements set forth under the HIPAA Privacy Rule (see 45 CFR §164.520 (b)), or in a separate stand alone document that complies with applicable law and these Policies and Procedures.
- b. Such Notice shall, at a minimum, inform Individuals regarding:
  - (1) Participant's participation in SCHIEEx EXCHANGE;
  - (2) Individual information will be exchanged via SCHIEEx EXCHANGE unless the Individual notifies the Participant that he or she desires to opt out of having his or her information exchanged through SCHIEEx EXCHANGE, except for information required to be exchanged by federal or state law;
  - (3) the general range of health care information the Participant may include in and make available to other Participants through SCHIEEx EXCHANGE;

- (4) the exchange of information through SCHIEx EXCHANGE is governed by federal and state law;
  - (5) the categories of entities and Individuals who are able to access the information through SCHIEx EXCHANGE;
  - (6) the categories of purposes for which such information may be accessed;
  - (7) how the Individual can opt out of having his or her information exchanged through SCHIEx EXCHANGE and the potential effects of choosing to opt out; and
  - (8) how the Individual may cancel the opt out and have his or her information exchanged through SCHIEx EXCHANGE.
- c. Each Participant shall have its own policies and procedures governing distribution of the Notice to Individuals, which shall be consistent with applicable laws and regulations. Participants should educate Individuals regarding Participants' participation in SCHIEx EXCHANGE, give Individuals the opportunity to ask questions regarding the same, and Notify Individuals of their right to opt out of having personal information transmitted via SCHIEx EXCHANGE. Participants should attempt to provide Individuals with a copy of the Notice prior to exchanging the Individual's information via SCHIEx EXCHANGE.
  - d. Participants are not required by these Policies and Procedures to provide separate notification of participation in SCHIEx DIRECT to Individuals. However, Participants must, at all times, comply with all applicable federal, state and local laws and regulations, including, but not limited to, laws and regulations protecting the confidentiality and security of Individually Identifiable Health Information; this obligation applies even if a Participant is not a Covered Entity or a Business Associate and would not otherwise be required to comply with such laws.

7. **Opting Out of SCHIEx.**

- a. Participant must implement processes to allow an Individual to choose to opt out of having information regarding that Individual included in or made available or exchanged through SCHIEx EXCHANGE, except for certain health information required to be submitted by federal or state law. At this time, an Individual's decision to opt out of having information exchanged or made available via SCHIEx EXCHANGE is global. If an Individual opts out, no information regarding such Individual will be exchanged or made available by any Participant via SCHIEx EXCHANGE, unless Required by Law. Participants may exchange an Individual's information via SCHIEx DIRECT when allowed by applicable law, even if that Individual has opted out of having information exchanged or made available via SCHIEx EXCHANGE. Participants that utilize only SCHIEx

DIRECT and the Clinical Viewer do not need to give Individuals an opportunity to opt out of SCHIEEx.

- b. An Individual may opt out of having his or her information included in or made available or exchanged through SCHIEEx EXCHANGE by Notifying Participant, in a form and manner determined by Participant, that the Individual chooses not to have information about the Individual included in or made available through SCHIEEx EXCHANGE as described in the Participant's Notice. Once an Individual has submitted a request to opt out of having his or her information included in or made available through SCHIEEx EXCHANGE, the Participant shall take appropriate steps to process the opt-out request and ensure that the Individual's information will no longer be available from Participant through SCHIEEx EXCHANGE as soon as possible after receipt of the request. The Participant shall inform the Individual approximately how long it will take for the opt-out request to go into effect. Each Participant must develop and implement appropriate mechanisms to ensure no information about an Individual who has opted out shall be included in or made available through SCHIEEx EXCHANGE.
  - c. An Individual who has opted out of having his or her information included in or made available through SCHIEEx EXCHANGE may choose at a later time to have his or her information included in SCHIEEx EXCHANGE. The Individual or that Individual's personal representative must request in writing, in a form or manner determined by Participant, that the Participant make the Individual's information available through SCHIEEx EXCHANGE. If an Individual chooses to cancel the opt out, all available information regarding that Individual may be accessed through SCHIEEx EXCHANGE.
  - d. Each Participant must document and maintain documentation of all Individuals' decisions to opt out of having information made available through SCHIEEx EXCHANGE or to cancel the opt out and have information made available through SCHIEEx EXCHANGE.
  - e. Participant shall not withhold care from an Individual on the basis of that Individual's decision to opt out of SCHIEEx EXCHANGE and shall make every reasonable effort to avoid any adverse impact on the Individual's quality of care.
8. **Requests for and Disclosure of Information.**
- a. All disclosures of health information through SCHIEEx, including both SCHIEEx EXCHANGE and SCHIEEx DIRECT, and the use of information obtained through SCHIEEx shall be consistent with all applicable federal, state, and local laws and regulations and shall not be used for any unlawful or discriminatory purpose. If applicable law requires that certain documentation exist or that other conditions be met prior to using or disclosing health information for a particular purpose, the requesting Participant shall ensure that it has obtained the required

documentation or met the requisite conditions and shall provide evidence of such at the request of the disclosing Participant.

- b. A Participant, including its Authorized Users, shall utilize SCHIEEx only for Permitted Purposes. Each Participant shall exchange health information through SCHIEEx only to the extent necessary and only for Permitted Purposes. Information received for a Permitted Purpose must not be disclosed to any third party for a non-Permitted Purpose unless required by applicable state and federal laws. Information may not be exchanged for marketing or marketing related purposes. Under no circumstances may information be exchanged for a discriminatory purpose. In the absence of a Permitted Purpose, a Participant may not exchange or query information through SCHIEEx.
- c. A Participant who has access to SCRIPTS prescription drug information through SCHIEEx must only request and access such information in accordance with the South Carolina Prescription Monitoring Act, S.C. Code Ann. 44-53-1610 et seq. An individual requesting and accessing SCRIPTS prescription drug information must be (i) a practitioner who possesses a DEA registration number, (ii) a pharmacist, or (iii) an “authorized delegate,” who is an individual who is approved for access to the prescription monitoring program and who is directly supervised by an authorized practitioner or pharmacist; further, such individual must certify that the requested information is for the purpose of providing medical or pharmaceutical treatment to a bona fide patient.
- d. Uses and disclosures of and requests for health information through SCHIEEx shall comply with all SCHIEEx Policies and Procedures, including, but not limited to, the SCHIEEx Policies on Minimum Necessary Information and Information Subject to Special Protection, included herein.
- e. Each Participant shall refer to and comply with its own internal policies and procedures regarding disclosures of health information and the conditions that shall be met and documentation that shall be obtained, if any, prior to making such disclosures.
- f. Each Participant disclosing health information through SCHIEEx shall implement a system to document such information as may be necessary for compliance with the HIPAA Privacy Rule’s accounting of disclosures requirement. Each Participant is responsible for ensuring its compliance with such requirement and may choose to provide Individuals with more information in the accounting than is required. Each requesting Participant must be able to provide information required for the disclosing Participant to comply with the HIPAA Privacy Rule’s accounting of disclosures requirement.
- g. Participant shall maintain an Audit log documenting who of Participant’s employees and/or contractors posted and accessed the information about an Individual through SCHIEEx and when such information was posted and

accessed. Upon request, Participant shall provide patients with an accounting of who has posted and who has accessed information about them through SCHIEEx and when such information was accessed.

9. **Information Subject to Special Protection.**

Each Participant shall determine and identify what information is subject to special protection under applicable federal, state, and/or local laws and regulations (e.g., substance abuse, mental health, and HIV) prior to disclosing any information through SCHIEEx. Each Participant is responsible for complying with such laws and regulations and for appropriately designating any information requiring special protection under applicable laws as such in the Participant's electronic medical record system and, if necessary, may withhold such information from SCHIEEx.

10. **Behavioral Health Information.**

- a. As used herein, the term "behavioral health" refers to both mental health and substance abuse.
- b. The method for exchanging health records through SCHIEEx is the opt-out method. However, individual behavioral health providers may choose to use an opt-in method instead. In such cases, patients must sign an opt-in informed consent before the patients' records may be exchanged via SCHIEEx. As discussed above, the opt-out methodology is generally SCHIEEx-wide, meaning that if a patient chooses to opt-out, none of the treatment records from any of his or her providers are shared through SCHIEEx. However, if the behavioral health provider chooses the opt-in methodology, such consent applies only to the behavioral health records; if a patient does not otherwise opt-out of SCHIEEx, his or her records from other providers may be shared via SCHIEEx. The electronic health record used by the behavioral health provider must have the capability to filter out records of patients who choose not to share their information. Liability for releasing information about a patient who chooses not to participate in SCHIEEx rests with the provider, not SCHIEEx.
- c. Substance abuse treatment records are subject to stricter federal rules than physical or mental health records. 42 CFR Part 2 requires that the patient consent indicate which specific providers can receive the treatment record, for what purpose, and when the consent terminates. Substance abuse treatment providers must always use a consent form that is compliant with 42 CFR Part 2. Treatment facilities with both mental health and substance abuse treatment programs will need a filter to signify whether a patient is in a substance abuse program covered by 42 CFR Part 2. Liability for releasing information about a patient in a 42 CFR Part 2 program rests with the provider, not SCHIEEx.

11. **Minimum Necessary Information.**

- a. Consistent with applicable HIPAA exceptions, each Participant shall use only the minimum amount of health Data obtained through SCHIEEx as is necessary for the purpose of such use. Each Participant shall only share health Data obtained through SCHIEEx with, and allow access to such Data by, those employees, agents, and contractors who need the Data in connection with a duly assigned job function or duty and who use that Data for a Permitted Purpose.
- b. Consistent with applicable HIPAA exceptions, each Participant shall access only the minimum amount of an Individual's Data through SCHIEEx as is necessary for the intended Permitted Purpose of the request.

12. **Access to SCHIEEx.**

- a. Each Participant shall allow access to SCHIEEx only by those employees, staff members, agents, and contractors who have a legitimate and appropriate need to use SCHIEEx.
- b. Each Participant shall designate an employee or agent to act as the Participant's Site Administrator. It is preferable that the Site Administrator not also serve as Participant's Privacy Officer. However, Participants with fewer than ten (10) full-time employees may utilize the same employee for both positions. The Site Administrator shall assign all log-on identifier and passcodes for Participant's employees, staff members, agents and contractors who will access SCHIEEx. The Site Administrator shall Monitor SCHIEEx access and verify that each employee, staff member, agent, or contractor has completed the training program required by these Policies and Procedures, as set forth below.
- c. Each employee, staff member, agent, or contractor who will access SCHIEEx shall be assigned a specific and distinct log-on identifier and private passcode required for SCHIEEx access. Participant is responsible for maintaining the security of all log-on identifiers. Participants shall develop, implement, and enforce internal policies governing the use of log-on identifiers and passcodes. At a minimum, each Participant's internal policies must forbid the sharing of log-on identifiers and passcodes, include a system for conducting internal Audits to identify improper access and breaches, and allow for immediate termination of access to SCHIEEx in the event of improper use or breach. No employee, staff member, agent, or contractor shall be provided with access to SCHIEEx or with a log-on identifier or passcode without first having been trained on these Policies and Procedures, as set forth below.
- d. Each Participant shall develop and implement a training program for its employees, staff members, agents, and contractors who will have access to SCHIEEx, including both initial and ongoing training, to ensure compliance with federal and state laws and regulations and these Policies and Procedures. The training shall include a detailed review of the SCHIEEx Policy Manual. Training

will also include an overview of the basic technology model and operation of SCHIEEx in order to ensure that Participant's staff is adequately prepared to introduce patients to SCHIEEx and to respond to requests for information from Individuals. Each Participant must document and maintain documentation of training for all employees, staff members, agents, and contractors given access to SCHIEEx by the Participant. Each trained employee, staff member, agent, and contractor shall sign a representation that he or she received and read the portions of the SCHIEEx Policy Manual relevant to his or her responsibilities as determined by the Participant and will adhere to the SCHIEEx Policy Manual.

13. **Breach Notification and Reporting of Non-Compliance.**

- a. Breach Notification. A Participant must report actual or suspected breaches of Protected Health Information, regardless of harm, that is stored electronically and is either available via SCHIEEx or has been exchanged or otherwise transmitted via SCHIEEx within twenty-four (24) hours of discovery of the suspected or actual breach. The report must be submitted in writing using the Complaint Form that is available at [www.schiex.org](http://www.schiex.org).

Participant must provide a telephone number on the Complaint Form where the Participant's Privacy Officer may be reached and must submit an online update regarding the suspected or actual breach to SCHIEEX within twelve (12) hours of reporting the initial breach. Participant agrees to cooperate with SCHIEEX throughout the breach investigation and to provide additional information to SCHIEEX regarding the breach as it becomes available.

This reporting requirement is in addition to any reporting requirement pursuant to applicable federal and state law. SCHIEEX will report any reported actual or suspected breaches to eHealth Exchange as required by the DURSA. However, SCHIEEX is not responsible for and will not report any actual or suspected breaches to any state or federal agency on behalf of a Participant. Such notifications remain the responsibility of Participant.

- b. Reporting of Other Non-Compliance. Each Participant must report any other violation of these Policies and Procedures or the SCHIEEx Policy Manual, including but not limited to the Interoperability Standards, failure to provide required Notice, or failure to abide by a patient's opt out request, regardless of harm, to SCHIEEX within forty-eight (48) hours of discovery. Participant agrees to cooperate with SCHIEEX throughout any investigation regarding suspected non-compliance and to provide additional information to SCHIEEX regarding the matter as such information becomes available.

14. **Quality of Information.**

- a. Each Participant is responsible for maintaining the quality and security of information entered into Participant's Electronic Medical Records (EMR) and made available to other Participants through SCHIEEx. SCHIEEX is not responsible for verifying or correcting any information made available by Participants through SCHIEEx.
- b. Each Participant shall comply with applicable federal, state and local laws and regulations regarding an Individual's right to request amendments of health information.
- c. Suspected Errors.
  - (1) Should a Participant receive Data via SCHIEEx DIRECT that Participant believes was intended to be sent to a different entity, Participant shall Notify the disclosing Participant as soon as possible of the suspected transmission error.
  - (2) Should a Participant receive Data via SCHIEEx EXCHANGE or SCHIEEx DIRECT that Participant believes is inaccurate or belongs to a patient other than the patient that is the subject of the exchange, Participant shall Notify the disclosing Participant as soon as possible regarding the suspected error.

15. **Enforcement.**

- a. The Governing Authority's designee must appropriately Monitor the exchange of Data via SCHIEEx DIRECT and SCHIEEx EXCHANGE. However, no designee may open or view any Data being exchanged via SCHIEEx. In the event that Monitoring reveals a Participant's possible non-adherence to these Policies and Procedures, SCHIEEX will attempt to mitigate the non-adherence through such measures including, but not limited to, reporting the suspected breach to the Participant and governmental authorities and issuing appropriate sanctions on the Participant as discussed below. The Governing Authority or its designee must investigate any report or complaint regarding a breach or inappropriate access, use, or disclosure of patient information exchanged through SCHIEEx or a violation of the SCHIEEx Policy Manual.
- b. If the Governing Authority determines that a violation has occurred or that patient information has been inappropriately accessed, used, or disclosed, the Governing Authority shall issue a letter to Participant imposing appropriate sanctions on the Participant, which may include immediate suspension or termination of Participant's access to certain SCHIEEx services and/or participation in SCHIEEx.
- c. If the Governing Authority determines that no violation occurred, the Governing Authority shall issue a letter to Participant dismissing the alleged violation.
- d. If the Governing Authority determines that the violation was minor and has been adequately addressed by the Participant, the Governing Authority shall issue a

letter to the Participant setting forth its findings and recommendations, if any, to avoid future violations.

16. **Termination of Participants.**

- a. Participation Agreement. Per the SCHIP Participation Agreement, termination may be for Cause, Without Cause, or by Consent.
  - (1) Termination for Cause means the failure by the Participant to perform a material term of the Agreement. The two material terms are as follows:
    - (a) Non-payment of fees
    - (b) Material breach and failure to remedy
  - (2) Termination Without Cause enables the Participant to terminate by giving sixty (60) days written notice to SCHIP.
  - (3) Termination by Consent enables termination by mutual written agreement of both the Participant and SCHIP.
- b. Non-Payment of Fees
  - (1) In the event that a participant does not pay the attributable fees associated with their participation within forty-five (45) days of the initial invoice, a second invoice shall be sent to the Participant.
  - (2) In the event that a Participant does not pay the attributable fees associated with their participation within thirty (30) days of the second invoice, SCHIP staff shall contact the Participant either via phone or electronic communication to encourage the payment of fees.
  - (3) Sufficient time, but no more than fifteen (15) days, shall be permitted for the Participant to pay the fee after they have been contacted by SCHIP staff.
  - (4) If the Participant has not paid the fee within the fifteen (15) day allocation, the Participant shall receive notice of termination of their access.
- c. Material Breach and the Failure to Remedy. If the Participant causes a material breach which is not remedied within thirty (30) days after the Participant has received notice of the material breach, the Participant's access shall be terminated and SCHIP staff shall retain documentation of the notice.
- d. Termination without Cause. If a participant provides the sixty (60) day written notice for termination without cause, SCHIP staff shall retain documentation of the notice and terminate the Participant's access.
- e. Termination by Consent. If both the Participant and SCHIP agree, in writing, to a termination of the relationship, SCHIP staff shall terminate the Participant's access and retain documentation of the mutual agreement.
- f. Effect of Termination. Immediately upon termination, Participant shall cease to be a Participant, and neither Participant nor its Authorized Users shall have any

rights to access or use the System, as defined in the Participation Agreement, or the SCHIEEx software.

- g. Exceptions. Should an exception to this policy arise, staff will submit the exception, along with the circumstances surrounding the exception, to the Board for approval or rejection.