

2022 SHIN-NY Policy Revisions

The following table sets forth the revisions reflected in version 4.0 of the *Privacy and Security Policies and Procedures for Qualified Entities and their Participants in New York State under 10 N.Y.C.R.R. § 300.3(b)(1)*.

Issue	Summary
All-In Consent Form (Appendix)	Model form would be the New York State approved all-in consent form, allowing disclosure throughout New York State.
Alternative Consent (1.3)	Policies would be revised to limit the use of alternative consent forms once the all-in-consent form is in place.
Naming of QEs (1.3.5(c))	Revision clarifies that a consent form is not required to include the name of any QE (a form like the all-in consent form may be valid even if does not include the name of a QE).
De-identified data (1.6)	Revision to return to old version of policy that allowed disclosures of counts of patients meeting clinical coverage criteria without consent. Revision would also align definition of de-identified data to HIPAA definition
Transmittals to Non-Participants (1.8.2)	Revision clarifies that information may be transmitted to non-participants based on a patient's signing of an all-in consent form.
Transmittals to Life or Disability Insurers (1.8.2(f))	Deletion of requirement to send an email to patient to confirm their decision to send their data to a life or disability insurer.
Affiliated Practitioners (1.9.1)	Revision clarifies that under the all-in consent model, the consent form may be obtained by either a participant or an organization that is not a participant, such as the New York State health exchange.
Consents that apply to more than one participant (1.9.3)	Revision clarifies that the all-in consent form and a single-provider consent form are not required to be offered to the patient simultaneously
Denial of consent (1.9.6)	The revision indicates that in the case of an all-in consent form, the denial option may be provided via a separate form.
Requests for restrictions on disclosures to a payer organization (1.9.13)	The revision indicates that if a patient has signed an all-in consent and the patient later submits a request to restrict disclosures to a health plan, the all-in consent is not impacted by such request, so long as the QE ensures that applicable information is not shared with the health plan.

Issue	Summary
Patient consent transition rules (1.10)	The new provision indicates that QEs can still rely on single-participant consents until single-participant consents are phased out entirely.
Utilization Review (definitions section)	Would modify SHIN-NY policy to permit utilization review as a Level 1 use.
CBO Policy (definitions; 8.2; 8.3.2 (a)(b))	<p>Would permit sharing of PHI with non-covered CBOs via a “one-to-one” exchange exception. Would also permit hospitals to send ADT alerts to non-covered CBOs to the extent such disclosures are permitted under HIPAA.</p> <p>The current security requirements that apply to CBOs would be modified to only be applicable to PHI. This will address the expected increase in more social service data being shared in the SHIN-NY with some of that data not being subject to HIPAA.</p>