

Policy Number & Title:	03-03 OneCare Data Use Policy
Responsible Department/s:	Analytics
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I. PURPOSE

OneCare Vermont (“OneCare”) is an accountable care organization contracted with state and federal agencies, commercial health plans, and third-party administrators, to administer value-based payment programs and perform Accountable Care Organization Activities.

So that it may perform these functions, Payers, Participants and Preferred Providers share various types of data with OneCare. OneCare analyzes these data and uses it to promote accountability for patient populations, improve care coordination among ACO Participants, Preferred Providers, Collaborators and their patients, and encourage investment in infrastructure and redesign of the care processes to achieve high quality and efficient delivery of services.

OneCare’s Participants and Preferred Providers have designated themselves an organized health care arrangement (“OHCA”) for the purpose of facilitating the use and disclosure of protected health information (“PHI”) among them for treatment and health care operations purposes, or as otherwise permitted under the HIPAA Privacy Rule.

The purpose of this Data Use Policy (“Policy”) is to provide standards and guidance to OneCare’s Board of Managers and Workforce, Participants, Preferred Providers, Collaborators, Regional Clinician Representatives, Subcontractors, and Vendors regarding the appropriate ways to use or disclose data provided to OneCare. This Policy, together with OneCare’s Privacy and Security Policy, is designed to ensure that OneCare manages data in accordance with the HIPAA Privacy Rule, its contractual obligations with Payers, and any applicable privacy laws.

II. POLICY STATEMENT

It is the policy of OneCare, as a Business Associate of its Participants and Preferred Providers, and as a custodian of Payer data, to ensure that in using and disclosing data it protects the privacy of individual health information in accordance with its contractual obligations and applicable privacy laws. OneCare’s Board of Managers, Workforce, Participants, Preferred Providers, Collaborators, Regional Clinician Representatives, Subcontractors, and Vendors are required to comply with this policy when accessing or using data in OneCare’s possession.

III. DEFINITIONS

“Accountable Care Organization” (ACO) refers to a group of doctors, hospitals, and/or other health care providers, who come together voluntarily to provide coordinated high-quality care to the beneficiaries and members they serve.

“ACO Activities” refers to activities engaged in by OneCare related to promoting accountability for the quality, cost, and overall care for a population of beneficiaries and members attributed to OneCare under the terms of any ACO Program agreement(s) between OneCare and any Payer(s), including managing and coordinating care; encouraging investment in infrastructure and redesigned care processes for high quality and efficient service delivery; or carrying out any other obligation or duty of OneCare.

“ACO Program” refers to any value-based payment arrangement between OneCare and a Payer for the provision of ACO Services to the Payer’s beneficiaries or members, as well as any other services it may provide to the Payer.

“ACO Program Agreement” refers to an agreement between OneCare and a Payer for the performance of ACO Services and any other services it may provide to the Payer.

“ACO Services” refers to health care services provided by OneCare to a Payer’s beneficiaries and members under an ACO Program Agreement.

“Business Associate” refers to a person or organization, other than a member of a covered entity's workforce, that performs certain functions or activities on behalf of, or provides certain services to, a covered entity that involve the use or disclosure of individually identifiable health information. Business associate functions or activities *performed on behalf of* a covered entity include *claims processing, data analysis, utilization review, and billing*. Business associate services *rendered to* a covered entity are limited to *legal, actuarial, accounting, and consulting, data aggregation, management, administrative, accreditation, or financial services*.

“Collaborator” refers to a Subcontractor that has entered into a Collaborator Agreement, a Business Associate Agreement (BAA), and a Data Use Agreement (DUA) with OneCare to perform any ACO Activities on behalf of OneCare.

“Commercial Claims Data” refers to claims-reimbursement data provided to OneCare by a commercial Payer that is described in an ACO Program Agreement and/or DUA. Commercial Claims Data includes claims-level detail, PHI Data, and may include Commercial Proprietary Data.

“Commercial Proprietary Data” refers to data provided to OneCare by a commercial Payer in relation to an ACO Program that is described as proprietary or confidential in an ACO Program Agreement and is subject to a confidentiality agreement and/or a DUA. Commercial Proprietary Data generally relates to, reveals, or could be used to deduce with reasonable effort, provider-specific financial or reimbursement terms. For example, data concerning payments or negotiated rates between a commercial Payer and a health care provider participating in the Payer’s provider network are generally considered to be Commercial Proprietary Data. The use of Commercial Proprietary data will be governed by a DUA and/or an ACO Program Agreement.

“Community Collaborative” refers to a gathering of local stakeholders working collaboratively to improve the care of the population in their health service area.

“Data” refers to health data of individuals provided to OneCare in electronic form by Payers, Participants, Preferred Providers, or any other covered entity - as that term is defined in 45 CFR 160.103 – related to health conditions, reproductive outcomes, causes of death, and quality of life of an individual, typically including record(s) of services received, conditions of those services, and clinical outcomes or information concerning those services, as well as demographic and other identifying information. Data further refers to all forms of Data defined in this Policy.

“Data Use Agreement” (DUA) refers to an agreement between OneCare and a Payer that governs the permitted uses of Data provided by a Payer to OneCare in relation to an ACO Program.

“Government Claims Data” refers to certain beneficiary-identifiable claims data provided to OneCare by Medicaid, Medicare, or any other federal healthcare program contracted with OneCare to provide ACO Services to its beneficiaries. Government Claims Data includes claims-level detail and PHI Data.

“Health Information Exchange” (HIE) – refers to the centralized repository or data warehouse operated by VITL that holds health information contributed by participating health care organizations in trust, and ensures that it is accessible by only authorized users.

“Minimum Necessary Standard” requires covered entities to take reasonable steps to limit the use or disclosure of, and requests for, protected health information to the minimum necessary to accomplish the intended purpose. It does not apply to the following:

- Disclosures or requests by a health care provider for treatment purposes.
- Disclosures to the individual who is the subject of the information.
- Uses or disclosures made pursuant to an individual’s authorization.
- Uses or disclosures required for compliance with the Health Insurance Portability and Accountability Act (HIPAA) Administrative Simplification Rules.
- Disclosures to the Department of Health and Human Services when disclosure of information is required under the HIPAA Privacy Rule for Enforcement purposes.
- Uses or disclosures that are required by other law.

“Organized Health Care Arrangement” (OHCA) refers to a clinically-integrated care arrangement of covered entities as defined in 45 C.F.R. § 160.103 in which individuals typically receive healthcare from more than one provider and in which the participants present themselves to the public as part of a joint arrangement. An accountable care organization qualifies as a clinically-integrated care arrangement of covered entities for the purpose of designating an OHCA.

“OHCA Members” refers to covered entities who designate themselves as participants in an OHCA.

“Participant” and **“Preferred Provider”** refer to health care provider(s) that have entered into a Participant or Preferred Provider Agreement(s) with OneCare to participate in one or more ACO Programs.

“Participant Aggregate Data” refers to data provided to OneCare by a Participant or Preferred Provider in aggregate form that does not include PHI Data.

“Participant Data” refers to data provided to OneCare by a Participant or Preferred Provider that includes PHI Data.

“Payer” refers to any governmental or commercial entity contracted with OneCare to provide ACO Services to its beneficiaries or members as part of an ACO Program.

“Payer Aggregate Data” refers to data provided to OneCare by a Payer in aggregate form that does not include claims-level detail, PHI Data, or Commercial Proprietary Data.

“PHI Data” refers to data provided to OneCare by a Payer, Participant, or Preferred Provider that includes individually-identifiable “Protected Health Information” (PHI), as that term is defined under the HIPAA Privacy Rule, that with or without direct identifiers can be used, either by itself or in combination with other data, to deduce an individual’s identity. Examples of PHI Data include a person’s: geographic location, age if greater than 89, sex, diagnosis and/or procedure(s), admission and/or discharge dates, and/or date of death.

“Provider Portal” (Portal) refers to a secure software platform provided by OneCare that allows Participants and Preferred Providers to remotely access data relevant to the performance of ACO Services and other ACO Program obligations.

“Regional Clinician Representatives” refers to clinicians contracted with OneCare to provide guidance to Community Collaboratives and to support OneCare in performing ACO Activities in OneCare’s Service Areas.

“Service Area” refers to counties identified by OneCare in which Participants or Preferred Providers who are Primary Care Specialists have office locations, as well as the adjacent counties.

“Subcontractor” refers to a person or entity that contracts with OneCare to perform part or all of an obligation(s) OneCare has agreed to perform under the terms of an ACO Program Agreement, or OneCare is required to perform pursuant to any relevant state or federal statute, regulation, rule, or controlling guidance.

“Vendor” refers to a person or entity that contracts with OneCare to provide it with goods and/or services.

“VAPAM” refers to the Vermont Medicare ACO Initiative Program.

“VITL” refers to Vermont Information Technology Leaders, Inc. which is the independent, non-profit organization that built and operates Vermont’s statewide Health Information Exchange.

“VMNG” refers to the Vermont Medicaid Next Generation Program administered by the Department of Vermont Health Access.

“Workforce” refers to: person(s) employed by, leased or furnished to, or shared with OneCare to perform jobs it assigns to them.

IV. DATA USES

1. Uses of PHI Data. PHI Data may only be used/disclosed in accordance with the HIPAA Privacy Rule, including the Minimum Necessary Standard, and in accordance with this Section IV of the Policy.

2. Uses of Government Claims Data. Government Claims Data may be used by and/or disclosed by or to members of OneCare’s Workforce, Member(s) of its Board of Managers, Participant(s), Preferred Provider(s), and/or Regional Clinical Representative(s) - including committees or subcommittees comprised of such persons - while engaged in the performance of: jobs assigned to them by OneCare, OneCare’s obligations under an ACO Program Agreement, or other ACO Activities in accordance with the HIPAA Privacy Rule, the Minimum Necessary Standard, and the terms of any applicable DUA or ACO Program Agreement. Government Claims Data may not be disclosed to any other person(s).

3. Uses of Commercial Claims Data. Commercial Claims Data may only be used by and disclosed by or to members of OneCare’s Workforce in accordance with the terms of a DUA or ACO Program Agreement and in accordance with the HIPAA Privacy Rule, including the Minimum Necessary Standard. Commercial Claims Data may not be disclosed to Member(s) of OneCare’s Board of Managers, Subcontractors, Vendors, or other person(s) unless such disclosure is permitted by the Commercial Payer’s DUA. Commercial Claims Data may not be shared with Participants, Preferred Providers, Collaborators, Regional Clinician Representatives, or Community Collaboratives unless permitted by the Commercial Payer’s DUA.

4. Uses of Payer Aggregate Data. Payer Aggregate Data may be used by OneCare for ACO Activities, including sharing such information with the public, in accordance with the HIPAA Privacy Rule and the terms of any applicable DUA or ACO Program Agreement.

5. Uses of Participant Data. Participant Data may only be used by and disclosed by or to members of OneCare’s Workforce, Participant(s), Preferred Provider(s), Subcontractor(s), Vendor(s),

Collaborator(s), or Regional Clinician Representative(s) that have entered into a Business Associate Agreement with OneCare, and in accordance with the HIPAA Privacy Rule, including the Minimum Necessary Standard. Participant Data may be used by OneCare to create Participant Aggregate Data. Participant Data may not be released to the Community Collaboratives.

6. Uses of Participant Aggregate Data. Participant Aggregate Data may be used and disclosed for ACO Activities in accordance with the HIPAA Privacy Rule.

7. Uses of Combined Data. Any combination of Payer or Participant data must adhere to Sections 1 through 6 of this Article IV based on the type of data. Where data from multiple Payers is aggregated, the most restrictive use applicable to any individual type of data contained in the combined data as set forth in any applicable DUA or ACO Program Agreement should be followed.

8. Accessing and Using the Provider Portal. OneCare grants Participants, Preferred Providers, and Collaborators – including their employees authorized to use the Portal by OneCare – (collectively “Users”) certain privileges to access the Portal in accordance with the terms of their Participant, Preferred Provider, or Collaborator Agreement(s), this Policy, the HIPAA Privacy Rule, including the Minimum Necessary Standard, and other relevant OneCare policies and procedures. Users may not re-disclose data obtained from OneCare through the Portal.

9. Data Obtained from the VITL HIE. OneCare contracts with VITL as its Business Associate to provide certain data collection, storage, and exchange services as an HIE. Data provided to OneCare by VITL will fall under one or more of the definitions set forth in this Policy and shall be used in accordance with terms of this Policy.

10. Releasing Data to Analytics Vendor(s). OneCare may release data provided by Payers to Subcontractor(s) and Vendor(s) performing data analytics services (Analytics Vendors) in accordance with the terms of any applicable DUA or ACO Program Agreement, this Policy, and the HIPAA Privacy Rule, including the Minimum Necessary Standard. OneCare will work with its Analytics Vendors to ensure they store and manage any data provided by OneCare in accordance with the terms of any service agreement and BAA with OneCare, any applicable DUA or ACO Program Agreement that contemplates such data, any separate permissions received by the Analytics Vendor from any Payer, any relevant OneCare policies and procedures, and the HIPAA Privacy and Security Rules.

V. OVERSIGHT AND ENFORCEMENT

OneCare management is responsible for the oversight and enforcement of this Policy. OneCare Workforce members that violate this policy may be subject to sanctions, which can include dismissal or termination of access to data. Participants or Preferred Providers that violate this Policy may also be subject to sanctions, which can include termination of participation agreements with OneCare.

Location on Shared Drive: S:\Groups\Managed Care Ops\OneCare Vermont\Policy and Procedures\Policies
Management Approval:

Senior Director, Value Based Care

9/18/19

Date

Chief Compliance Officer

10/1/19

Date

Chief Operating Officer (COO)

9/25/19

Date

Board of Managers Approval: *Requires BOM approval annually if content/substantial changes. If N/A BOM approval every two years.



Chairman, OneCare VT Board of Managers

9/17/19

Date