



Memorial Healthcare System
Atlantic Coast HIE

Policies and Procedures

2013

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Overview

This document outlines the policies and procedures for “**Participants**” of the Atlantic Coast HIE. “**Participants**” of the Atlantic Coast HIE can include, but are not limited to, the following:

- Physician Practice – physicians and other users within a physician practice that connect to the Atlantic Coast HIE through a disparate EHR system.
- Health System – other hospitals or clinically integrated healthcare facilities and providers that contract with Memorial and Optum Insight/Axolotl (or such other vendor as selected by Memorial) to connect to the Atlantic Coast HIE.
- Ancillary Service Providers – including, but not limited to, reference labs and diagnostic imaging centers that connect to the Atlantic Coast HIE.
- Community Hubs and Other HIEs – connectivity to Community Hubs and other Health Information Exchanges.

For purposes of the policies and procedures contained herein, a “**Provider User**” shall mean those persons who have been authorized to access patient health information in a manner that is consistent and in compliance with the terms and conditions contained in these Policies and Procedures. “**Provider Users**” may include, but are not limited to, health care providers and employees of health care providers.

1. Management of the Atlantic Coast HIE Policies and Procedures

The Atlantic Coast HIE Policies and Procedures will be posted on the Memorial Healthcare System (MHS) physician portal on the MHS Intranet (the “**MHS Physician Portal**”) and at the Atlantic Coast HIE Website (www.AtlanticCoastHIE.com). The Policies and Procedures are subject to change and updated Policies and Procedures will be posted on the MHS Physician Portal and the Atlantic Coast HIE Website as changes occur. It is the responsibility of each Participant to regularly check for the latest version of the Policies and Procedures. All updates to the Policies and Procedures shall be effective as of the date posted on either the MHS Physician Portal or the Atlantic Coast HIE Website (www.AtlanticCoastHIE.com).

2. Oversight Board and Advisory Board

The operations of the Atlantic Coast HIE shall be governed and managed as an operational division under the MHS Information Technology Department. The MHS Chief Information Officer will appoint members of the Atlantic Coast HIE Oversight

Board. In order to promote effective communication and efficient operations of the Atlantic Coast HIE, MHS will also appoint an Advisory Board that will include among its members representation from Participants. The Advisory Board will provide, as requested, recommendations to the Oversight Board regarding issues related to the Policies and Procedures. The members of the Oversight Board and the Advisory Board shall be posted on the Atlantic Coast HIE Website (www.AtlanticCoastHIE.com). The bylaws and Policies and Procedures regarding the Atlantic Coast HIE operations and the Oversight Board and the Advisory Board will be established by MHS and will also be posted on the Atlantic Coast HIE Website.

3. Privacy and Security

MHS Privacy Program and Security Programs apply to the Atlantic Coast HIE and the Participants and are intended to protect the privacy, confidentiality, and security of individually identifiable health information contained within the Atlantic Coast HIE (the "Data"). The Data is further defined in Section 8 herein. The MHS Privacy Program operates under the general principal that MHS maintains personal medical information in a confidential manner and limits access to Data to persons who have a legitimate need to know, or who are authorized by the patient or the patient's legal representative, or who are authorized by applicable law. The MHS Privacy Programs and Security Programs are posted on the Atlantic Coast HIE Website (www.AtlanticCoastHIE.com).

Following are clarifications to the MHS Privacy Programs that are necessary for applying such Programs to the Atlantic Coast HIE, Participants, and Provider Users:

- (a) **Section III, C - Limitation of Data Disclosures to Minimum Necessary.** Language in the MHS Privacy Programs shall be amended to include authorized releases to the Atlantic Coast HIE.
- (b) **Section X, G – Audit and Performance Improvement.** Language noted in the MHS Privacy Program shall be amended to include the Audit polices as noted in Section 9 of these policies and procedures.
- (c) Each Participant and Provider User is responsible for ensuring training and education of its workforce in the requirements of these Policies and Procedures, including the MHS Privacy Programs and Security Programs.

4. Opt-in Patient Consent

The Atlantic Coast HIE is managed by an "opt-in" patient consent model. Data will not be shared with other Participants until the patient chooses to explicitly opt-in to the Atlantic Coast HIE by completing the appropriate opt-in patient consent form (the

“**Opt-In Consent**”). Pursuant to the Opt-In Consent model adopted by the Atlantic Coast HIE, all Data relating to patients of Participants of the Atlantic Coast HIE will be sent to the Atlantic Coast HIE for storage, with the Atlantic Coast HIE acting as a Business Associate of each Participant, as required by HIPAA, but will not be viewable by other Participants until a patient elects to opt-in. If and when a patient chooses to opt-in, existing Data stored in the Atlantic Coast HIE will be viewable to all Provider Users of the Atlantic Coast HIE.

It is the responsibility of each Participant and Provider User to educate his or her patients on the Atlantic Coast HIE’s Opt-In Consent policy as well as what Data is shared with the Atlantic Coast HIE. The obligation to obtain patient consent is held solely by each Participant and its Provider Users. When a patient chooses to opt-in, it is the responsibility of the Participant and its Provider Users electronically to send, via its EHR system, a copy of such Opt-In Consent to the Atlantic Coast HIE. The ability of a Participant’s or Provider User’s EHR system to send the Opt-In Consent to the Atlantic Coast HIE will be validated with each third party EHR vendor prior to a connection being made between the EHR and the Atlantic Coast HIE. In the event an EHR system cannot electronically send the Opt-In Consent to the Atlantic Coast HIE, the affected Participant and Provider User will use the Virtual Health Record (“**VHR**”) tool available from Axolotl to submit his or her patients’ Opt-In Consents.

The Atlantic Coast HIE’s Opt-In Consent form combines the patient’s consent agreement to place his or her Data in the HIE with authorization for Provider Users to use and disclose that Data. Except as described in Section 5 herein, Participants and Provider Users shall access Data only for those Individuals who have signed the Opt-In Consent.

5. Medical Emergency Exception

As an exception to the Opt-in Consent requirement described above, a Provider User may issue the request for and have access to a patient’s Data without first obtaining Opt-In Consent in the event of a medical emergency when the patient or his/her legal representative is unable or unavailable to provide Opt-In Consent and where the Provider User making the request is a health care provider who has a need for access to the Data for the purpose of treating a condition which poses an immediate threat to the health of the patient, and which requires immediate medical intervention. In the event of an emergency access to a patient’s Data, the requesting Provider User shall document the access in the patient’s record immediately following the disclosure. The documentation shall include the name of the medical personnel to whom disclosure was made and their affiliation with any health care facility, the name of the individual making the disclosure, the date and time of the disclosure, and the nature of the emergency. Further, the Provider User must notify the patient or the patient’s legal representative of the emergency access within seventy-two (72) hours of such

emergency access. Health care providers who access Data subject to 42 CFR Part 2 are responsible for placing information regarding the emergency access from the patient lookup service audit log in their records as required by 42 CFR Part 2. This includes the following notice:

**Notice Regarding Health Data Containing Substance Abuse
Information Subject to 42 CFR Part 2**

This information has been disclosed to you from records protected by federal confidentiality rules (42 CFR Part 2). The federal rules prohibit you from making further disclosure unless further disclosure is otherwise permitted by 42 CFR Part 2. A general authorization for the release of medical or other information is NOT sufficient for this purpose. The federal rules restrict any use of the information to criminally investigate or prosecute any alcohol or drug abuse patient.

6. Audit

The Atlantic Coast HIE will conduct random audits of its Participants and Provider Users to verify that Participants and Provider Users have properly documented Opt-In Consent and, if applicable, properly documented emergency access of patient's Data from the Atlantic Coast HIE.

The Atlantic Coast HIE will provide Participants and Provider Users with recommended forms to document patient consent to participation in the Atlantic Coast HIE as required by Section 4, above.

It is the responsibility of each Participant and Provider User to keep on file signed Opt-In Consent forms that document authorization for Data to be provided to the Atlantic Coast HIE and, by extension, to be used and disclosed by Participants and Provider Users of the Atlantic Coast HIE.

7. List of Participants

Currently the following organizations are Participants in the Atlantic Coast HIE:

- Memorial Healthcare System
- Quest Diagnostics
- Participating Physician Practices
- Health Systems and Community Hubs

For the most up to date information on Participants please visit www.AtlanticCoastHIE.com. Detailed information on the Data shared by each Participant can be found in the “Data Sharing” section of this document. Please note that the list of Participants and Data shared may change from time-to-time. Please check the Atlantic Coast HIE Website (www.AtlanticCoastHIE.com) regularly for the latest version of this document, information on Participants, and the information on Data that will be shared through the Atlantic Coast HIE.

8. Data Sharing

The following section outlines the Data that maybe available through the Atlantic Coast HIE to Participants and Provider Users, as well as the Data that is required to be shared by Participants and Provider Users (collectively referred to as the “Data”). Also listed below are those data elements that should not be shared with the Atlantic Coast HIE.

(a) From Memorial Healthcare System

As a member of the Atlantic Coast HIE, Participants and Provider Users will have access to the following information from MHS hospitals:

- Patient Demographics
- Lab Results
- Pathology Results
- Transcribed Reports
- Radiology
- Cardiology Reports
- Vital Signs

(b) From Quest Diagnostics

As a member of the Atlantic Coast HIE, a Provider User may have access to copies of all results of tests performed by Quest for Participants of the Atlantic Coast HIE. In addition, Quest Diagnostics will provide all Physician Practices with the ability to place orders electronically with Quest Diagnostics through Quest’s web-based portal.

Note that results sent to the Atlantic Coast HIE from Quest Diagnostics will not be the report of record. Participants and Provider Users must continue to receive lab results from Quest Diagnostics by their current delivery method(s) and retain such results in their underlying medical records.

(c) From Physician Practices

Physician Practices are required to share the following data from their EHR System(s):

- Demographic Information
- In-office Lab Results
- Lab Results from Third Party Entities
- Imaging Information
- Allergies
- Medications
- Problem Lists
- Current Medication List

(d) **From Health Systems and Community Hubs**

As a member of the Atlantic Coast HIE, Health Systems and Community Hubs' EHR software must be able to connect to the Atlantic Coast HIE via HL7 interface or CCD exchange.

Based upon the EHR's capabilities, the HL7 interface will include: (1) import/export patient demographics (minimum: last name, first name, DOB, gender) in ADT format; (2) import/export lab and radiology results in ORU format; and (3) import/export of transcribed reports and general visit documentation.

CCD interfaces shall exchange C32 documents via either PIX/PDQ and XDS.b or XCPD and XCA standards.

Specifications for EHR connectivity to the Atlantic Coast HIE and Data that is required to be shared are subject to change at the Atlantic Coast HIE's discretion.

(e) **Data Exclusion**

Participants will not share information related to the following:

- Psychotherapy Notes
- Behavioral Health and Substance Abuse Rehabilitation Notes

If any substance abuse information is included in the Atlantic Coast HIE, that information must not be further disclosed without specific patient consent for such further disclosure. Participants shall assume records containing substance abuse information are subject to 42 CFR Part 2 requirements unless it can be definitively determined otherwise and the basis for such determination

is documented to the Atlantic Coast HIE's satisfaction. Participants must post the following notification with any substance abuse information records:

**Notice Regarding Health Data Containing Substance Abuse
Information Subject to 42 CFR Part 2**

This information has been disclosed to you from records protected by federal confidentiality rules (42 CFR Part 2). The federal rules prohibit you from making further disclosure unless further disclosure is otherwise permitted by 42 CFR Part 2. A general authorization for the release of medical or other information is NOT sufficient for this purpose. The federal rules restrict any use of the information to criminally investigate or prosecute any alcohol or drug abuse patient.

While it is understood that there may be a limited number of cases in which individual pieces of Data are not shared with the Atlantic Coast HIE, it is the expectation that the required Data elements will be shared. In cases when a patient does not want certain Data elements to be shared with the Atlantic Coast HIE, it is the responsibility of the Provider User not to permit such patient to provide Opt-In Consent to participation in the Atlantic Coast HIE.

9. Requirements for Provider Users

Accounts for Provider Users will be set up based on the following criteria:

(a) **Role Based Access**

Access to the Atlantic Coast HIE by a Provider User will be determined based on the Provider User's role within the Participant. Categories of Provider Users will be established by role. These roles will drive the level of Data access that is granted. It will be the responsibility of each Participant to ensure that the Provider User roles can be established, maintained and monitored through its underlying EHR system. The Atlantic Coast HIE initially has established the following roles for Provider User access to the Atlantic Coast HIE:

- Practitioner with Clinical Data Access
- Non-practitioner with Clinical Data Access
- Non-practitioner without Clinical Data Access

(b) **Authentication**

Authentication is the process of verifying that a Provider User who has been authorized to access the Atlantic Coast HIE is who he or she claims to be. Authentication will be established during each log-in to the Participant's underlying EHR system and the Atlantic Coast HIE. Each Provider User accessing data must have a unique user ID and password to provide authentication. It will be the responsibility of the Participant to make sure that this authentication is provided to Provider Users and used in the Participant's underlying EHR system.

(c) **Reasons for Access**

While access settings govern the scope of Data that may be accessed by any particular Provider User, these Policies and Procedures govern the purposes for which such access is permitted. At this time, Data may be accessed by Provider Users only for the following purposes: (1) providing or assisting in patient treatment; or (2) "Health Care Operations" of the Provider User. In particular, access is permissible only for: (i) the treatment of the Individual who is the subject of the Data requested or received by the Provider User, but only to the extent that these purposes are expressly included in the Opt-In Consent or for a medical emergency as permitted by law; or (ii) Health Care Operations, but only to the extent that these purposes relate to quality or other purposes expressly permitted by the Individual in the Opt-In Consent and provided that the requesting Provider User also has established a treatment relationship with the individual who is the subject of the Data. When access is desired for permissible Health Care Operations purposes, the requesting Provider User must use the Data only for his or her own operations purposes. Further, Provider Users shall access only the minimum amount of Data necessary to accomplish the Provider User's permissible Health Care Operations purposes. Provider Users also may use the HIE for Public Health activities and reporting, but only to the extent permitted by Applicable Law as specified in 64D-3, Florida Administrative Code.

The Atlantic Coast HIE reserves the right to adopt additional purposes in the future, to the extent permitted by law (each an "**Additional Purpose**"). The Atlantic Coast HIE will adopt new Additional Purposes only to the extent they are approved by the Oversight Board. The Oversight Board will consult with the Advisory Board before approving any Additional Purposes. The adoption of any Additional Purpose(s) will also be subject to approval of Memorial Healthcare System's General Counsel.

The Atlantic Coast HIE shall post on the Physician Portal and the Atlantic Coast HIE Website any amendment(s) to these Policies and Procedures permitting an Additional Purpose(s). Each Participant shall have thirty (30) days after the Amendment is first posted on either the Physician Portal or the Atlantic Coast HIE Website, to terminate the Participant's participation in the Atlantic Coast HIE, provided that the Atlantic Coast HIE receives written notice of such termination within thirty calendar days after the Amendment is first posted on the Atlantic Coast HIE Website. Such termination shall be effective thirty (30) days after the Atlantic Coast HIE's receipt of such notice. The foregoing notwithstanding, a termination of participation shall not affect the Atlantic Coast HIE's right to use for the Additional Purpose(s) any Data provided by the Participant prior to the effective date of the termination of Participant's participation in the Atlantic Coast HIE.

Participants may not provide temporary or group access to Data in the Atlantic Coast HIE. Each time a Provider User accesses Data via the Atlantic Coast HIE, such Provider Users must enter his or her unique user name and password.

Participants shall not access the Atlantic Coast HIE to conduct any business or activity, or solicit the performance of an activity, that would violate any law or legal obligation, including any activity that would create civil or criminal liability, including but not limited to:

- Uses which are defamatory, deceptive, obscene, or otherwise inappropriate
- Uses that violate or infringe upon the rights of any other person, such as unauthorized distribution of copyrighted material
- Spamming, sending unsolicited bulk e-mail or other messages or sending unsolicited advertising or similar conduct
- Threats to or harassment of another
- Knowingly sending any virus, worm, malware, or other harmful component
- Impersonating another person or other misrepresentation of source
- Wrongfully accessing or disclosing any proprietary information, including, but not limited to, trade secrets, research protocols and findings, new products, marketing plans, processes, specifications,

source codes, passwords, identifiers, financial and business information of any other party

- Using or accessing any Data or any proprietary information of another party to compare patient volumes, practice patterns, or make any other comparison

(d) **Termination of Provider Users**

It is the responsibility of each Participant to notify the Atlantic Coast HIE as soon as practicable, and not later than one business day after of the Participant's determination that a Provider Users no longer meet qualifications to participate in the Atlantic Coast HIE, including, without limitation, those who are terminated or resign. Notice must be provided in writing electronically to the Atlantic Coast HIE via its Website. For additional information, please contact the Memorial Healthcare System Help Desk at 954-276-7676 or electronically at ACHIE@MHS.net. Once notified, the Atlantic Coast HIE will terminate access for disqualified Provider Users. Audits may take place at any time to verify that only qualified Provider Users have access to the Atlantic Coast HIE.

10. Audit

Atlantic Coast HIE Participants and Provider Users are subject to audit at any time. Audits may include but are not limited to:

- Identity of patients whose Data was accessed
- Identity of Provider Users who accessed Data
- Type of Data accessed
- Source of Data accessed
- Date and Time of access

Audits will allow administrators of the Atlantic Coast HIE to see Provider User activity on a per-click basis. This will provide a full audit trail of all patient information that has been accessed in the Atlantic Coast HIE.

11. Breach of Policies and Procedures

If a Participant learns of a breach of any Atlantic Coast HIE Policy or Procedure. The Participant shall:

- Notify the Atlantic Coast HIE of the breach in writing as soon as reasonably practical and not later than five (5) business days after its learning of the breach

The Atlantic Coast HIE requires Participants to take any appropriate action against the breaching Provider User(s). Appropriate action includes, but is not limited to:

- Temporary Restriction of a Provider User's access to the Atlantic Coast HIE
- Requiring the Provider User to undergo additional training
- Terminating the Provider User's access to the Atlantic Coast HIE

In addition the Atlantic Coast HIE may take any appropriate action against the breaching Participant and/or Provider User. A breach of the Atlantic Coast HIE Policies and Procedures may result in civil or criminal liability.

12. Breach of PHI

The Atlantic Coast HIE acknowledges that to the extent it is a business associate of its covered entity Participants, it is required to notify covered entity Participants of a breach of unsecured Protected Health Information (“**PHI**”) as further defined in the Department of Health and Human Services (“**HHS**”) HITECH Act Breach Notification Rule (the “**Breach Notification Rule**”). The full Breach Notification Rule can be found at:

<http://www.hhs.gov/ocr/privacy/hipaa/administrative/breachnotificationrule/index.html>.

Any Provider User who discovers a suspected “Breach” (as defined in the Breach Notification Rule) of unsecured PHI must immediately notify the Atlantic Coast HIE Privacy Officer. The Provider User may notify the Privacy Officer of the occurrence of a suspected or potential Breach in any format, including in writing, electronically, or orally. The Privacy Officer will document the report of a suspected Breach along with the date and time that he or she was notified of such event. If the suspected Breach is a Security Incident (as defined by the Breach Notification Rule), the Privacy Officer will notify the Atlantic Coast HIE Security Officer via the method set forth on the Atlantic Coast HIE Website (www.AtlanticCoastHIE.com), and the Security Officer will investigate the Security Incident (as defined by the Breach Notification Rule).

- (a) The Privacy Officer will conduct an initial review of the suspected Breach to determine whether a Breach occurred and, if so, the scope, magnitude and

severity of the Breach; mechanisms for mitigating the harmful effects of the Breach; and ways to remediate the vulnerability that lead to the Breach.

- (b) The Atlantic Coast HIE will make reasonable efforts to conduct and complete its review of the suspected Breach as soon as reasonably practical after the discovery of the Breach; and at all times in compliance with the reporting requirements of the Breach Notification Rule.
- (c) If the Privacy Officer determines a Breach has occurred, the Atlantic Coast HIE shall notify the affected Participant's Covered Entity pursuant to the terms provided in its Business Associate Agreement with the Participant's Covered Entity, but in no case later than sixty (60) days of discovering the Breach.

13. Support and Maintenance

It will be the Participant's responsibility to maintain the EHR and interfaces required to exchange Data with the Atlantic Coast HIE. If interface problems arise, it will be the responsibility of the Participant and its EHR vendor to work with the Atlantic Coast HIE to restore functionality. Specifications for EHR connectivity to the Atlantic Coast HIE are subject to change at the Atlantic Coast HIE's discretion. The Participant must pay any support and maintenance costs that may be charged by EHR vendors.

14. Patient Engagement and Education

It is the responsibility of the Participant and each Provider User proactively to engage and educate its patients in the processes used by the Atlantic Coast HIE to exchange Data. This includes education and engagement on, but not limited to, the following topics:

- Patient Consent
- Patient Data Sharing
- Concept of an HIE and longitudinal health record
- Education on current Participants

Educational materials on these topics may be provided to Participants by the Atlantic Coast HIE on the MHS Physician Portal and may be revised from time to time; however it will be the responsibility of each Provider User to provide the education to each patient.

15. No Accounting of Disclosures

Patients who request an Accounting of Disclosures through the Atlantic Coast HIE will be directed to their appropriate Participant. The Atlantic Coast HIE does not maintain a designated record set and no accounting of disclosures is required with respect to Data maintained by the Atlantic Coast HIE.

16. No Release of Information (ROI)

Except as otherwise required by law, the Atlantic Coast HIE will not provide stand-alone release of information (ROI) functionality for the information that resides in the exchange. Any request for information maintained within the Atlantic Coast HIE will be released only for treatment purposes to Provider Users of the Atlantic Coast HIE.

17. HIE Data; No Designated Record Set

The Atlantic Coast HIE does not maintain a designated record set and any Data contained within the Atlantic Coast HIE that is viewed and used by a Provider User for patient treatment will not be considered a part of a Participant's legal medical record. Data that a Provider User pulls from the Atlantic Coast HIE and integrates into the Participant's Designated Record Set and/or legal medical record will be considered part of the legal medical record maintained by that Participant. Participants are solely responsible for educating their Provider Users on the appropriate means for integrating exchange information into their underlying EMRs and/or Designated Record Sets and/or legal medical records.

18. Discovery Requests and Other Disclosures Required by Law

Provider Users shall not disclose Data contained with the Atlantic Coast HIE beyond that contained within the Participant's Designated Record Set in response to a discovery request. Should a Participant believe it is required by subpoena or otherwise required by law to disclose Data contained within the Atlantic Coast HIE beyond that which is contained in the Participant's Designated Record Set, the Provider shall notify the requester that it is not the records custodian of the Atlantic Coast HIE, and that the request should be directed in writing to: Atlantic Coast HIE, 3051 N. Commerce Parkway, Miramar, FL 33025, Attention: Office of the General Counsel, with an electronic copy sent simultaneously to ACHIE@MHS.net.

In the event the Atlantic Coast HIE receives a subpoena or other discovery request, it will immediately forward the request to its legal counsel, and will follow the advice of counsel with respect to subpoena.

Please note, however, that the Atlantic Coast HIE's position is that it is not the custodian of medical records and therefore will not produce any records or data in response to the subpoena.

19. Aggregation and De-identification of Data

The Atlantic Coast HIE currently does not aggregate or de-identify Data within the Atlantic Coast HIE. However, it reserves the right to do so in the future, to the extent permitted by law. The Atlantic Coast HIE has determined that it will not aggregate or de-identify Data without first obtaining approval by its General Counsel, and informing Participants through a change in these Policies to include specific information regarding the changes.

The Atlantic Coast HIE reserves the right to aggregate and de-identify Data in the future, to the extent permitted by law. The Atlantic Coast HIE shall only aggregate and de-identify Data to the extent approved by the Oversight Board. The Oversight Board will consult with the Advisory Board before approving the aggregation and de-identification of Data. The aggregation and de-identification of Data shall also be subject to approval of Memorial Healthcare System's General Counsel.

In the event the Atlantic Coast HIE decides to aggregate and de-identify Data, then the Atlantic Coast HIE shall post on the Physician Portal and the Atlantic Coast HIE Website an amendment(s) to these Policies and Procedures to that effect. Each Participant shall have thirty (30) days after the Amendment is posted on the Atlantic Coast HIE Website, to terminate the Participant's participation in the Atlantic Coast HIE, provided that the Atlantic Coast HIE receives written notice of such termination within thirty (30) calendar days after the Amendment is first posted on either the Physician Portal or the Atlantic Coast HIE Website. Such termination shall be effective thirty (30) days after the Atlantic Coast HIE's receipt of such notice. The foregoing notwithstanding, a termination of participation shall not affect the Atlantic Coast HIE's right to aggregate and de-identify any Data provided by the Participant prior to the effective date of the termination of Participant's participation in the Atlantic Coast HIE.

Frank V. Sacco,
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