

Carequality Policy on Public Health Queries During COVID-19 Emergency

The following Carequality Policy is adopted by the Carequality Steering Committee, with immediate effect as of May 7, 2020.

The Carequality Steering Committee recognizes that access to clinical information for COVID-19-positive patients is necessary for public health agencies, and that the ability for public health agencies to leverage Carequality connectivity would be highly beneficial. Two notable barriers exist, however, to public health participation in Carequality, that are addressed by this Policy:

- In the short term, it will be challenging for many Carequality Implementers to provide their Carequality Connections with the ability to respond to queries that assert the Permitted Purpose of Public Health. Many Implementers are able to support responses only to queries for the Permitted Purpose of Treatment.
- Questions persist for provider organizations about whether or not the data set released in response to queries for the purpose of Treatment, would violate the HIPAA provision to release to public health agencies only the “minimum necessary” information.

With respect to the first barrier, the Steering Committee is providing a temporary waiver to public health agencies regarding the Permitted Purpose claimed in queries. Specifically, notwithstanding anything to the contrary in the Query-Based Document Exchange Implementation Guide (QBDE IG), Carequality Connections who meet the requirements to initiate a query for the Permitted Purpose of Public Health as outlined in QBDE IG Section 3.1, may indicate in such queries that the Permitted Purpose of the query is Treatment. Some of the requirements enforced on this ability are intended to address the second barrier.

This waiver is intended to allow for progress in the short term, and to provide urgent assistance to public health agencies while development to support public health queries fully, as outlined in the QBDE IG, is completed. It is not intended to provide a long term solution.

Public health agencies may use the Purpose of Use code typically reserved for the Permitted Purpose of Treatment for queries that actually qualify for the Permitted Purpose of Public Health under the following conditions:

- It is no more than 60 days after the end of the HHS determination that a public health emergency exists nationwide with respect to COVID-19. The Steering Committee may choose to extend the validity of this waiver beyond the period of any emergency declaration at its sole discretion.
- The Implementer or Carequality Connection being queried has not specified “Public Health” as a supported permitted purpose in its Carequality Directory entry. When querying an Implementer or Carequality Connection that supports the “Public Health” permitted purpose, the proper Purpose of Use code for a Public Health query MUST be used by the public health agency.
- A distinct Carequality Connection is listed in the Carequality Directory to initiate these queries, and MUST initiate only such queries. A public health agency that also operates treatment facilities, and therefore can initiate queries that qualify for the Permitted Purpose of Treatment

as outlined in QBDE IG Section 3.1, MUST be represented separately in the Carequality Directory. This requirement ensures that all queries from the public health agency that qualify for this waiver, are identifiable and auditable as being for the Permitted Purpose of Public Health, based on the originating Carequality Connection.

- The Implementer supporting the public health agency as a Carequality Connection also maintains its own audit information of all queries performed under this Policy, will retain this audit information for a minimum of six (6) years, and during that retention period will provide it upon request to any organization who responded to one of the public health agency's queries performed under this Policy.
- The public health agency has issued formal guidance that the minimum necessary information it needs for COVID-19 patients under HIPAA is consistent with the information typically released, via existing interoperability functionality, by providers to other providers for Treatment purposes. This guidance should also indicate the Carequality Implementer that will support the public health agency in its Carequality participation.
- The Implementer supporting the public health agency as a Carequality Connection has identified the Carequality Connection to Carequality as participating under this waiver.
 - The Implementer MUST report its intention to add a Carequality Connection under this waiver by sending an email to admin@carequality.org prior to creating the Directory entry for such Carequality Connection.
 - The email MUST include the name of the public health agency, and its area of jurisdiction, such as a state, territory, county, or city.
 - The email MUST also include a copy of the public health agency's formal guidance with respect to minimum necessary information, as noted above. Carequality MAY refuse to allow the public health agency to participate if the formal guidance does not reasonably address provider concerns about the minimum necessary data set for public health, relative to the information reasonably expected to be released via Carequality.
 - The Implementer MUST NOT create a Carequality Connection entry in the Carequality Directory until at least one (1) business day after a Carequality staff member sends an email to other Carequality Implementers indicating the name and jurisdiction of the public health agency that will be participating.
 - The name of the Carequality Connection entry created in the Carequality Directory for the public health agency MUST exactly match the name provided to Carequality and shared with other Implementers.
- By initiating a query for documents (IHE ITI-38, as further specified by the QBDE IG) under this waiver, the public health agency asserts that the document metadata for all clinical documents available to be released by a provider organization to another provider organization for the purpose of Treatment, is part of the minimum necessary data set that it needs to fulfill its public health function.
- By initiating a document retrieve transaction (IHE ITI-39, as further specified by the QBDE IG) under this waiver, with the stated purpose of Treatment, the public health agency asserts that the specific document being retrieved is part of the minimum necessary data set that it needs to fulfill its public health function.
- The query is related to a person under investigation or is being screened with respect to COVID-19.

- The public health agency is encouraged to use the document query parameters supported by the Query for Documents (IHE ITI-38) transaction, to help limit the information being requested to the minimum necessary. The public health agency acknowledges that not all Query Responders can honor these query parameters.

Note that although queries performed under this Policy are permitted to use the code identifying a query as Treatment, the queries are for the Permitted Purpose of Public Health and are governed as such with respect to non-discrimination and other relevant requirements of the QBDE IG. In particular, Implementers and Carequality Connections are not required to honor these queries. Implementers and Carequality Connections that choose to honor these queries, may choose to do so only for public health agencies serving particular jurisdictions relevant to that Implementer or Carequality Connection. For example, a health system with facilities located only in Ohio may choose to respond to queries from public health agencies serving the state of Ohio and local jurisdictions within Ohio, while choosing not to respond to queries from public health agencies serving jurisdictions in other states.

Further, recognizing that contracting with a public health agency can be a difficult and protracted process, the Steering Committee is also providing a waiver for Carequality Implementers with respect to their obligation under the Carequality Connected Agreement to ensure that the Carequality Connection Terms are legally binding on all Carequality Connections. Solely for public health agencies that meet all the conditions of participation outlined above, a Carequality Implementer may list the public health agency in the Carequality Directory as a Carequality Connection even if the public health agency is not legally bound to comply with the Carequality Connection Terms. By listing such a public health agency in the Carequality Directory as a Carequality Connection, however, an Implementer takes responsibility for that public health agency's participation in Carequality and for its queries complying with the Carequality Elements.