

HEALTH GORILLA

QHIN GOVERNANCE PROGRAM POLICY

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Purpose

A health information exchange network creates a community of participants, each of whom has the potential to impact the others. As with any other type of shared community, participants will join a health information network only if they feel that the community offers safeguards to protect the interests of each participant. While contractual terms can provide the basis for safe and beneficial exchange participation, a governance program is needed for fair and equitable enforcement and administration of those terms.

This document defines the governance program for the Health Gorilla QHIN, and the rights and responsibilities of each Customer and of Health Gorilla, in the operation of the governance program.

Scope

This policy addresses the key governance functions of the Health Gorilla QHIN, including the roles played in each function by the Health Gorilla QHIN Governing Council (“Council”). The second half of the policy describes the composition and operation of the Health Gorilla QHIN Governing Council, and shall serve as its Charter.

Definitions

Capitalized terms are defined as in the Agreement, the Health Gorilla QHIN-Participant Agreement, or in the Glossary of Terms.

Governance Functions

Key governance functions are outlined below, along with the respective roles of Health Gorilla, the Council, and, if applicable, other parties. Any functions not outlined below shall be the responsibility of Health Gorilla, although Health Gorilla shall make reasonable efforts to consult the Council about substantive matters related to the operation of the Health Gorilla QHIN.

Resolution of Disputes

Smooth operation of a health information network requires that participants work together collaboratively to resolve challenges that arise. Parties operating in good faith will often be able to arrive at a mutually satisfactory resolution to circumstances in which there is a disagreement between network participants. Customer acknowledges this collaborative environment, and agrees that it shall make reasonable efforts to resolve any disagreements with other Health Gorilla customers, their End Users, other QHINs, their Participants, and other relevant parties, in an informal and collaborative manner. Specifically, to the extent not legally prohibited, Customer shall (a) respond in a timely manner to inquiries from Health Gorilla, other Health Gorilla Customers, other QHINs, their Participants, and their Sub-Participants, about possible issues related to health information exchange activities enabled by the Health Gorilla QHIN; (b) require that its Subparticipants, their downstream Subparticipants, and End Users do the same; and (c) collaboratively participate in discussions, independently or facilitated by Health Gorilla, to address any disagreements arising out of its participation in the Health Gorilla QHIN, prior to pursuing the Health Gorilla QHIN's formal dispute resolution process.

To the extent that such collaboration does not resolve a disagreement, however, Customer may pursue the formal approach to Dispute Resolution described in the Health Gorilla QHIN Dispute Resolution Policy, subject to any further limitations or restrictions imposed by such policy. The aforementioned policy also outlines the specific roles played by the Council and by Health Gorilla in the context of Dispute Resolution.

Enforcement of Participation Terms

Fair and equitable enforcement of a health information network's participation terms is a key element of any network governance structure. Customer acknowledges and agrees that its participation in the Health Gorilla QHIN may be subject to the determinations of the Council and its interpretation of the Health Gorilla QHIN Network Participation and Onboarding Policy, and that Health Gorilla will implement decisions of the Council related to the suspension and/or termination of Customer's participation in the Health Gorilla QHIN. Customer acknowledges and agrees that it must abide by the requirements of the Health Gorilla QHIN Suspension and Termination Policy, and the Health Gorilla QHIN Dispute Resolution Policy, which outline the specific roles played by the Council and by Health Gorilla with respect to issue and dispute resolution and enforcement of the participation terms.

Incident Response and Management

In the event of a Threat Condition, as defined in the Common Agreement, Health Gorilla staff shall seek to understand, contain, and mitigate the Threat Condition, consulting with other parties as necessary and as provided for under the Common Agreement. As soon as reasonably practicable, Health Gorilla shall inform the Council of an identified Threat Condition, shall make reasonable efforts to keep the Council apprised of progress as the Threat Condition is addressed, and shall seek the Council's advice on the matter to the extent reasonably permitted by the urgency demanded by the Threat Condition. To the extent that addressing the Threat Condition involves the potential suspension or termination of a Health Gorilla QHIN participant, the Council will play the role outlined for it in the Health Gorilla QHIN Suspension and Termination Policy.

Technical Framework

The Health Gorilla QHIN relies on the Health Gorilla Technology. Health Gorilla acknowledges that the Common Agreement requires Health Gorilla to maintain compliance with the QHIN Technical Framework (“QTF”). Nonetheless, if the Council concludes that the Health Gorilla Technology is not in compliance with any requirement of the QTF, the Council may present to Health Gorilla a written report describing the perceived non-compliance in sufficient detail for Health Gorilla to investigate the concern and, if applicable, develop a reasonable estimate of the effort and time required to address the issue. Within thirty (30) days of receiving such a report, Health Gorilla shall provide the Council with either a plan and timeline for addressing the issue, or with a written response indicating why Health Gorilla believes the concern does not represent non-compliance with a QTF requirement. If, after consideration of such written response from Health Gorilla, the Council continues to conclude that the Health Gorilla Technology is not in compliance with the QTF, Health Gorilla shall, within thirty (30) days of such conclusion being reached, provide the Council with a plan and timeline for addressing the issue.

Change Management

Essential to trust in any governance program is assurance that the key elements of the governance program can be amended only through a participatory process that takes into account participant feedback and is not subject to any single party’s control.

The following governance program elements, each a “Covered Element”, are subject to the change management process outlined in this section:

- This QHIN Governance Program Policy
- The QHIN Dispute Resolution Policy
- The QHIN Suspension and Termination Policy
- The QHIN Participation and Onboarding Policy

The Council may propose amendments to a Covered Element for consideration by all Health Gorilla QHIN Participants. Upon receiving such a proposed amendment, Health Gorilla shall, within thirty (30) days, make a determination as to whether the proposed amendment would (i) introduce an increased risk of significant harm to Health Gorilla, its QHIN Participants and Sub-Participants, other QHINs, their Participants and Sub-Participants, any individual, or any other third party; (ii) have a realistic potential to result in Health Gorilla incurring costs such as Health Gorilla’s operation of the Health Gorilla QHIN would no longer be economically viable; (iii) introduce a risk of non-compliance with applicable law or the participation requirements of the Health Gorilla QHIN, such that Participants or Sub-Participants could reasonably be expected to end their participation in the Health Gorilla QHIN rather than comply with the amended Covered Element; or (iv) be reasonably likely to result in Health Gorilla’s non-compliance with applicable law, the requirements of the Common Agreement, or the requirements of any other contract to which Health Gorilla is a party, with no commercially reasonable method being available to address such non-compliance. In the event that Health Gorilla determines that an amendment meets one or more of the aforementioned criteria, Health Gorilla shall make reasonable efforts to work with the Council to develop a revised proposal, but in no event will Health Gorilla advance a proposed amendment that meets one or more of the aforementioned criteria.

Upon determining that a proposed amendment may proceed given the preceding paragraph, Health Gorilla will distribute such proposed amendments to all Participants for the Participants’ review and comment. The Council shall consider any feedback that is received by Health Gorilla within thirty (30) calendar days of Health Gorilla’s distribution of the proposed amendments to the Participants. After consideration of any feedback received, the Council may elect to withdraw its proposal and not proceed with changes to the Covered Element. Otherwise, the Council shall approve a final version of the proposed amendment, which Health Gorilla shall distribute to all Health Gorilla QHIN Participants, along with a proposed effective date for the amendment that is at least sixty (60) calendar days after the date of the distribution of the final version of the amendment. For twenty-one (21) calendar days after such distribution, Health Gorilla will accept objections from Participants who do not approve of the proposed amendment. Acceptance of the amendment need not be explicitly communicated. The proposed amendment will become effective upon the proposed effective date unless more than twenty-five percent (25%) of the Health Gorilla QHIN Participants register an objection. Within three (3) business days of the end of the objection period, Health Gorilla shall communicate to the Council and each Participant the result of the objection period, and shall confirm the effective date of the amendment if the amendment will proceed.

Notwithstanding the above, until the Council is convened, Health Gorilla may propose amendments to any Covered Element, and shall play the role outlined for the Council at all stages of the process described above in the context of such amendments.

Health Gorilla QHIN Governing Council

Composition

The Council shall be composed of eleven (11) voting members, and up to three (3) Health Gorilla staff as non-voting members.

Three (3) of the voting members shall represent Subparticipants of Health Gorilla QHIN Participants. The other eight (8) voting members shall represent Participants in the Health Gorilla QHIN.

At least three (3) of the voting members shall represent provider organizations.

At least three (3) of the voting members shall represent digital health companies, who provide technology solutions for healthcare. Such solutions need not be electronic health records (EHRs), although EHR vendors shall be considered digital health companies for purposes of Council representation.

The other five (5) voting members may represent any type of organization, so long as the organization is a valid Participant or Subparticipant of the Health Gorilla QHIN.

The representation requirements for provider organizations and digital health companies may be satisfied by either Subparticipants or Participants.

In addition to the Health Gorilla non-voting members, other Health Gorilla staff may attend meetings of the Council for administrative purposes such as note-taking in support of meeting minutes, or as subject matter experts invited by the Chair. Such staff members generally will not participate in the Council's deliberations, unless requested to do so by the officer presiding over the meeting.

Terms of Office

Each individual selected to serve on the Council as a voting member shall serve a two (2) year term. Voting Council members may not serve more than three (3) consecutive terms.

Notwithstanding the standard two (2) year term, five (5) voting members selected to serve at the time of the Council's initial formation, shall be assigned one (1) year terms through a random selection process. Specifically, the voting members will be assigned a number based on their position within the list of voting members when alphabetized by last name. The first member in alphabetical order by last name will be assigned the number one (1), the second member in alphabetical order by last name will be assigned the number two (2), and so on. Health Gorilla will then use an on-line random number algorithm to generate five (5) numbers between one (1) and eleven (11), inclusively. The voting members whose numbers based on their alphabetical order position are selected, will be given one (1) year terms.

The terms for the initial members of the Council shall begin on the date that Health Gorilla announces the identities of the initial Council members to the Health Gorilla QHIN Participants. The one (1) year period beginning on that date, and each subsequent one (1) year period beginning on the anniversary of that date, shall be a "Council Term".

Non-voting members serve at Health Gorilla's discretion, but Health Gorilla shall strive to minimize any changes to the non-voting members that do not coincide with the start of a Council Term.

Selection Process

At least ninety (90) calendar days before the start of each Council Term after the first Council Term, Health Gorilla shall notify all live Health Gorilla QHIN Participants of their opportunity to nominate an individual to represent the Participant on the Council, and/or an individual representing one of its Subparticipants. Nominations will be accepted from Participants that are actively engaged in live exchange via the Health Gorilla QHIN, and whose participation is not suspended. Individuals nominated as Subparticipants must represent organizations that are actively engaged in live exchange via the Health Gorilla QHIN and the nominating Participant, and whose

participation is not suspended. The communication to Participants also shall include a deadline date for submitting such nominations, which shall be at least twenty-one (21) calendar days from the date of the notification. Such nominations shall also identify whether the organization being represented is a digital health company or a provider organization. Health Gorilla will, in its sole discretion, make the final determination on whether an organization is a digital health company or provider organization for purposes of Council representation, but will not unreasonably override an organization's own self-identification into one of these categories.

At least forty-five (45) calendar days before the start of each Council Term after the first Council Term, Health Gorilla shall provide a list of all nominated individuals, the organizations they represent, and whether that organization is a Participant or a Subparticipant, to all live Health Gorilla QHIN Participants.

Health Gorilla also shall identify how many Participant and Subparticipant seats are available for selection, given the then-current Council members whose terms are coming to an end. Each live Health Gorilla QHIN Participant may submit a private vote to Health Gorilla for a number of Participant and Subparticipant nominees up to the number of seats available, within a voting period of fourteen (14) calendar days after receiving the list of nominated individuals.

Health Gorilla shall compile the votes received within the voting period. If one or more individuals from digital health companies and/or provider organizations must be seated in order to fulfill the composition requirements outlined above, then the individual(s) representing the relevant category(-ies) of organization receiving the highest numbers of votes shall win terms as members of the Council, regardless of how their vote total(s) compare to those of other nominees not within their category(-ies). Once the digital health and provider organization requirements have been fulfilled, the individual(s) with the highest vote totals from among the remaining nominees shall fill any remaining open seat(s). In the event of ties, Health Gorilla will use a random process to identify a winner, with such random process giving each individual an equal opportunity to win.

The process for selecting the initial Council members will be the same as described above except that Health Gorilla shall choose, at its sole discretion, when to begin the selection process, provided that the initial Council is seated within one (1) year of Health Gorilla's Designation as a QHIN.

The non-voting members shall be appointed by Health Gorilla, at Health Gorilla's sole discretion.

Meeting Schedule and Procedures

The Council shall meet on at least a quarterly basis. Health Gorilla staff will assist the Chair and Vice-Chair in scheduling meetings, providing teleconferencing services, creating and distributing agendas, and facilitating meetings. Meetings may be scheduled more frequently at the discretion of the Chair in consultation with Health Gorilla, and/or as demanded by the Council's role in the Dispute Resolution or Suspension and Termination processes.

A quorum consists of a simple majority of the voting members of the Council, so long as at least one non-voting member of the Council also is present, and at least one of the voting members represents a Sub-Participant.

A vote by a simple majority of the voting members of the Council is required to approve an official action of the Council, unless otherwise specified in this document. For the avoidance of doubt, the following actions require a majority vote of the voting members of the Council:

- Recommending amendments to the Covered Elements
- Establishing a panel to hear a Dispute as described in the QHIN Dispute Resolution Policy
- Accepting a Corrective Action Plan as described in the QHIN Suspension and Termination Policy
- Making a suspension or termination decision under the QHIN Suspension and Termination Policy
- Determining whether or not to initiate an External Dispute, as that term is defined in the QHIN Dispute Resolution Policy, and in accordance with that policy
- Adopting the minutes of a previous meeting

The Chair, with the guidance of the Council and in consultation with Health Gorilla staff, may determine that other actions not listed above should be taken only after a majority vote of the Council. Votes are generally expected to occur during meetings of the Council, but the Council may choose to allow voting on a particular action by email, for any reason but potentially including a desire to allow time for further consideration, or to allow more voting members to cast a vote. With the approval of both the Chair and Vice Chair, an action can be presented and put

to a vote of the Council entirely via email, without such email vote being approved by the Council during a meeting of the Council. Without limiting the discretion of the Chair and Vice Chair in such matters, this method could be used for simple actions such as approving minutes, or for very time-sensitive actions around suspension or termination.

Conflicts of Interest

The organizations participating in Health Gorilla's QHIN may include digital health companies, electronic health record (EHR) vendors, health information exchanges (HIEs), provider organizations, and others. While each Council member is expected to represent the perspective of his or her organization, Council members also are expected to represent the best interests of the overall Health Gorilla QHIN community.

A member must recuse him or herself from any discussion, vote, or other proceeding, including but not limited to disputes or considerations of possible suspension, that relates specifically to an action of the Council with respect to that member's own organization. The nature of the Health Gorilla QHIN is such that all actions of the Council may impact all participants to varying degrees, so a conflict of interest exists only when a topic under consideration is specific to a member's own organization or a small subset of organizations including the member's organization.

A member also must recuse him or herself from any discussion, vote, or other proceeding, including but not limited to disputes or considerations of possible suspension, that relates specifically to an action of the Council with respect to an organization that is a direct competitor of that member's organization. All parties acknowledge and agree that some degree of competition will exist between many organizations with representation on the Council. A conflict of interest exists only when two organizations are clear and direct competitors. For example, two EHR vendors who both serve provider organizations consisting of 3-20 physicians, would be clear and direct competitors. Another example would be two HIEs that provide coverage to the same geographic area.

Competitive relationships among digital health companies are complex, and members representing digital health companies shall use reasonable judgment in identifying competitive conflicts of interest, and recusing themselves from actions of the Council as appropriate based on such conflicts. If a member whose organization is the specific subject of a Council action reasonably believes that another member has an undeclared conflict of interest, the member whose organization is under consideration may notify the Chair or Vice Chair to request that the other member's continued participation in that action be reviewed.

Officers

The Council shall have three (3) officers, a Chair, Vice-Chair, and Secretary. The Chair and Vice-Chair shall be selected by the voting members of the Council, from among their number, to serve for approximately one (1) year with the precise length of the term depending on the timing of selection relative to the beginning of the Council Term, and on the potential for a slight extension into the following Council Term as described below. An individual may serve for multiple terms as Chair or Vice-Chair so long as that individual remains a member of the Council. The selection of a Chair and Vice-Chair shall be completed within thirty (30) calendar days of the beginning of each Council Term. The Secretary shall be selected by Health Gorilla from among the non-voting members.

If the Chair from the previous Council Term is still a member of the Council at the beginning of a new Council Term, that individual shall continue to serve as the Chair until the Chair for the new Council Term is selected. If the previous Chair is no longer a Council member at the beginning of a new Council Term, but the previous Vice-Chair is a member at such time, the previous Vice-Chair shall temporarily serve as the Chair until the Chair for the new Council Term is selected. If neither the Chair nor Vice-Chair from the previous Council Term is a member of the Council at the beginning of a new Council Term, Health Gorilla shall select one of the non-voting members to serve as the temporary Chair, until the Chair for the new Council Term is selected.

The Chair's role is to preside over meetings of the Council, to collaborate with Health Gorilla staff on the development of agendas for Council meetings, and to provide general advice to Health Gorilla between meetings, on issues related to the Council or to operations of the Health Gorilla QHIN.

The Vice Chair shall preside over meetings of the Council in the Chair's absence, and shall otherwise perform the same functions as described above for the Chair.

The Secretary shall be responsible for the completion, distribution, and publication of meeting minutes.

Document Control

Ownership and responsibility

Document Owner	Dave Cassel
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Amendment History

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Distribution List

This document has been issued to the following people for information (I) and / or review (R):

Name	Position	I/R
Genia Koziarski	Director of PMO	R
Steven Lane	Chief Medical Officer	R

Related Documentation

Document Name
QHIN Suspension and Termination Policy
QHIN Dispute Resolution Policy
QHIN Participation and Onboarding Policy