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ENTITY

Standard Operating Procedure (SOP): Dispute Resolution

Applicability: QHINs, Governing Council (or Transitional Council as applicable)

1 PURPOSE

The Common Agreement provides a mechanism for Disputes to be resolved via a collaborative process so that QHINs and the Governing Council are not required to seek resolution of their Disputes via litigation. This SOP describes the process that QHINs will use in the Dispute Resolution Process.

2 PROCEDURE

1. Informal Conference

- a. Prior to submitting a Dispute¹ to the Dispute Resolution Process, the parties² involved in the Dispute will meet and confer with each other, at least once, in good faith and at a mutually agreeable location (or virtually/telephonically), to try to reach resolution (the "Informal Conference").³
- b. If the parties are unable to reach resolution through the Informal Conference, any involved party may escalate the Dispute to the Dispute Resolution Process. To begin the formal Dispute Resolution Process, a QHIN must submit a written summary of the Dispute to the RCE via email to RCEgovernance@sequoiaproject.org (the "Dispute Summary"). The Dispute Summary must contain the following elements:
 - (i) The identity of all other parties involved in the Dispute;
 - (ii) A concise statement of the issue(s);
 - (iii) A brief description of the results of the Informal Conference; and
 - (iv) Any additional attachments or references that might be helpful to the review and resolution of the Dispute.

¹ "Dispute" means (i) a disagreement about any provision of the Common Agreement, including any Standard Operating Procedure, the QHIN Technical Framework, and all other attachments, exhibits, and artifacts incorporated by reference; or (ii) a concern or complaint about the actions, or any failure to act, of Signatory, the RCE, or any other QHIN or another QHIN's Participant(s).

² Throughout this Dispute Resolution Process SOP, we use the term "parties" to refer to those involved in the Dispute. While QHINs are the only organizations that are permitted to bring a Dispute to the DR Council, they may bring forward a Dispute on behalf of their Participant(s). To the extent that a QHIN brings a Dispute on behalf of its Participant, it is expected that the Participant will participate in the Dispute Resolution Process and would be included in the term "party."

³ This informal conference applies to QHINs since they are the only type of organizations that can bring a Dispute through this process. To the extent that it is a QHIN-to-QHIN or Participant-to-other-QHIN dispute, the Framework Agreement must require the Participant to work in good faith with the other Participant or QHIN to try to resolve the Dispute. If they cannot resolve the Dispute through informal mechanisms, then the Participant will notify its QHIN of the Dispute and the QHIN may begin this Dispute Resolution Process.

The Dispute Summary must not include any Protected Health Information (PHI).

2. Dispute Resolution Council

- (a) The Dispute Resolution Council (the “DR Council”) will be a nine- (9-) member standing council composed of individuals selected by the Governing Council as set forth below.
- (b) The Governing Council shall select four (4) individuals from the QHIN Caucus and four (4) Participant representatives from the Participant/Subparticipant Caucus to serve on the DR Council. The ninth member of the DR Council will be selected from among the members of the Governing Council. In deciding who to select, the Governing Council shall take into account the need for DR Council members to: (i) understand the Common Agreement, the SOPs, and the QTF, so that they can make informed decisions about the Dispute; and (ii) have a disposition that will lend itself to helping the parties to a Dispute achieve a fair and agreed upon resolution.
- (c) All members of the DR Council shall sign a Confidentiality Agreement by which they agree to maintain the confidentiality of any Confidential Information (as defined in the Common Agreement) that they learn as part of a Dispute.
- (d) The RCE shall provide support to the DR Council with such technical, policy, legal, and staff support as needed.

3. Disputes Between QHINs and/or Their Participant(s)

- (a) Upon receipt of a Dispute Summary for a Dispute between QHINs and/or their Participants, the RCE will notify the DR Council that a Dispute Summary was received.
- (b) For each Dispute that is submitted to the Dispute Resolution Process, the DR Council members are required to declare any conflicts of interest. Once a DR Council member declares a conflict, the remaining Council members shall decide amongst themselves whether such member is ineligible from serving on the Dispute Panel (defined below) for such Dispute.
- (c) Following the declaration of conflicts of interest, the DR Council will appoint three of its members to hear the Dispute (the “Dispute Panel”). If there are not three DR Council members without a disqualifying conflict of interest, the DR Council will ask the Governing Council to appoint as many individuals as are needed to constitute a three-person Dispute Panel.
- (d) The DR Council and, if necessary, the Governing Council, will strive to constitute the Dispute Panel within twenty (20) business days of receiving the Dispute Summary from the RCE. In no case will the constitution of the Dispute Panel take longer than forty (40) business days, except with the consent of both parties.

- (e) Once the Dispute Panel is constituted, the Dispute Panel will have thirty (30) calendar days in which to convene a meeting of the involved parties (the “First Panel Meeting”). During this meeting, each party shall have an opportunity to present its version of the Dispute and any information that it believes is pertinent to the Dispute Panel’s decision.
- (f) The Dispute Panel will have access to subject matter experts, including but not limited to RCE legal counsel, to advise it on relevant matters.
- (g) Within ten (10) business days of the First Panel Meeting, the Dispute Panel may notify the parties that a second meeting (the “Second Panel Meeting”) is required to obtain further information. The Dispute Panel and the parties shall strive to convene the Second Panel Meeting within fifteen (15) business days of the parties receiving notice from the Dispute Panel that the Second Panel Meeting is needed.
- (h) At any point during the process, the Dispute Panel shall have the ability to request additional information from the parties to help it make its determination. QHINs shall cooperate with such requests in accordance with the Common Agreement. The Dispute Panel, however, shall not have the authority to compel a response or the production of testimony or documents by the parties. If a party refuses to supply information that is requested by the Dispute Panel, the Dispute Panel will, nonetheless, proceed with its review and will issue its Recommendation for Resolution without the requested information. In conjunction with its Recommendation for Resolution, the Dispute Panel must inform the DR Council of the party’s refusal to supply the Dispute Panel with the requested information. The Dispute Council will consider the Recommendation for Resolution in accordance with Section 3(k) and, in rendering its determination thereunder, may construe the information withheld in the light most favorable to the other party/parties. The DR Council may, in addition, refer the matter of the party’s refusal to supply requested information for consideration by the Governing Council as to whether such refusal constitutes a breach of the Common Agreement. To the extent that the parties respond to requests of the Dispute Panel by producing documents, each party shall have the ability to mark documents as containing “Confidential Information,” provided such information aligns with the definition of “Confidential Information” in the Common Agreement. The Dispute Panel shall treat those documents as Confidential Information in accordance with the terms of the Confidentiality Agreement that each member of the Dispute Panel has signed.
- (i) [*Intentionally omitted*]
- (j) The Dispute Panel is expected to work with the parties to facilitate a mutually agreeable resolution of the Dispute. If a facilitated resolution is not achievable, the Dispute Panel has the authority to develop its own resolution that it will present to the parties for consideration. Any resolution must take into account the following: all available evidence; the goals of the Common Agreement; the requirements of the

Common Agreement, the SOPs, and the QTF; and other relevant and appropriate considerations.

- (i) To the extent necessary to address any issues identified through the Dispute, the Dispute Panel has the authority to recommend corrective action plans with required timelines for implementation of such plans, suspension of a party's ability to participate in exchange activities, or termination of a party's status as a QHIN or Participant. The type of recommendation will depend on the nature and severity of the issues identified through the Dispute.
 - (ii) The Dispute Panel may not impose any monetary penalty on any party or otherwise require the provision of funds or in-kind support by one party to the other.
 - (iii) Corrective action plans recommended by the Dispute Panel must be limited to those steps necessary to restore a party to compliance with the Common Agreement, the SOPs, and the QTF, as determined by the Dispute Panel.
- (k) The Dispute Panel will strive to issue a written recommendation for resolution to the DR Council ("Recommendation for Resolution") within twenty (20) business days of conclusion of the First Dispute Meeting or, if applicable, within fifteen (15) business days of conclusion of the Second Panel Meeting. In no case will the Dispute Panel take longer than forty (40) business days to issue the Recommendation for Resolution to the DR Council, unless it has the consent of both parties.
- (l) The DR Council shall review the Recommendation for Resolution along with the information on which such Recommendation for Resolution was based and either refer the Dispute back to the Dispute Panel for further study or information or issue a decision (the "DR Resolution"). The DR Council will strive to complete its review within twenty (20) business days, and in no case will it take longer than forty (40) business days after receipt of the Recommendation for Resolution to issue the DR Resolution to the parties, except with the consent of both parties.
- (i) If any party chooses to appeal the DR Resolution, that party must notify the Governing Council within twenty (20) business days of the date on which the DR Resolution is issued to the parties and must copy all other parties to the Dispute. The notice must include a copy of the DR Resolution and a brief summary of the reason for the appeal (the "Notice of Appeal")
 - * **NOTE:** A party that is dissatisfied with the DR Resolution **must** timely appeal the DR Resolution to the Governing Council prior to and as a condition of pursuing any legal, equitable, or administrative remedies (except as provided in Section 15.2 of the Common Agreement).
 - (ii) If no party provides proper Notice of Appeal to the Governing Council within such twenty- (20-) day period, the DR Resolution becomes the "Final Resolution."

- (iii) **The Final Resolution is the final decision and dispositioning of the Dispute for purposes of the applicable Framework Agreement(s).** Any party failing to act in accordance with such Final Resolution may be declared in breach of the Common Agreement and suspended or terminated from participating in activities under the applicable Framework Agreement(s) accordingly.⁴

4. Appeal to the Governing Council

- (a) The Governing Council shall review the Notice of Appeal and may request additional information from one or more of the parties or from the DR Council. The Governing Council may also seek input from subject matter experts, including but not limited to RCE legal counsel, to advise it on relevant matters. The Governing Council will strive to complete its initial review and, if applicable, issue requests for additional information within twenty (20) business days of receipt of the Notice of Appeal. If the Governing Council requests additional information, the parties and/or DR Council, as applicable, shall have ten (10) business days to respond with the information requested. In no case will it take longer than forty-five (45) business days after receipt of the Notice of Appeal for the Governing Council to issue its decision (the “GC Determination”) to the parties and to the DR Council, except with the consent of all parties.
- (b) The GC Determination is the “Final Resolution.”
- (c) **The Final Resolution is the final decision and dispositioning of the Dispute for purposes of the applicable Framework Agreement(s).** Any party failing to act in accordance with such Final Resolution may be declared in breach of the Common Agreement and suspended or terminated accordingly from participating in the activities under the applicable Framework Agreement(s) accordingly.⁵
- (d) Following the issuance of the GC Determination, the Dispute Resolution Process is complete, and a party is free to pursue all remedies that are available to it under Applicable Law.
 - (i) **Seeking legal remedies does not stay the effect of the Final Resolution. A Final Resolution is determinative and enforceable for purposes of the activities under the Framework Agreements,** regardless of the initiation or pendency of any legal, equitable, or administrative action(s) relevant to the Dispute.

⁴ If the Final Resolution applies to a Participant, the Participant’s QHIN is responsible for enforcing the Final Resolution against such Participant.

⁵ If the Final Resolution applies to a Participant, the Participant’s QHIN is responsible for enforcing the Final Resolution against such Participant.

- (ii) If a party files any legal, equitable, or administrative claim, compliant, or action related to the Dispute, the party must timely and generally provide notice of such filing to the RCE.

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