



DISTRICT SCHOOL BOARD OF PASCO COUNTY

Kurt S. Browning, Superintendent of Schools

7227 Land O' Lakes Boulevard • Land O' Lakes, Florida 34638

Purchasing Services

Michael J. Woodall, CPPO, Purchasing Agent
813/ 794-2221 Fax: 813/ 794-2112
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352/ 524-2221 e-mail: mwoodall@pasco.k12.fl.us

November 5, 2013

MEMORANDUM

TO: Honorable School Board Members

FROM: Michael J. Woodall, CPPO, Purchasing Agent *MJW*

RE: Office for Career & Technical Education
Business Associate Agreement
Bear Creek Nursing and Rehabilitation Center
Consulate Health Care of New Port Richey

The Office for Career & Technical Education is requesting board approval for the attached business associate agreements with the above referenced entities. These agreements are for students in the Pasco County Health Occupations Program which requires them to comply with privacy and security of protected health information. Please reference the attached memo from Mr. Rob Aguis, Director of the Office for Career & Technical Education for further information regarding this agreement.

At this time, we respectfully request your approval to enter into the agreements with the above-referenced entities. The services are outlined in the agreement and are attached for your perusal. The agreement will cover the period of Board approval through the termination of the service agreement. The agreement was originally reviewed by the District School Board's Attorney, Ms. Nancy Alfonso on October 8, 2013.

Should you have any questions regarding this matter, please contact Mr. Rob Aguis or me at your earliest convenience.

MJW/acf

Attachments

Date/Time: October 30, 2013 08:47:00



DISTRICT SCHOOL BOARD OF PASCO COUNTY

Kurt S. Browning, Superintendent of Schools


7227 Land O' Lakes Boulevard • Land O' Lakes, Florida 34638

Office for Career and Technical Education
Rob Aguis, Director
(813) 794-2204 Fax: (813) 794-2794
(727) 774-2204 E-mail: raguis@pasco.k12.fl.us
(352) 524-2204

MEMORANDUM
CTE-034-13/14

November 5, 2013

To: Michael Woodall, Purchasing Agent

From: Rob Aguis, Director, Office for Career & Technical Education 

Subject: **Business Associate Agreement with Bear Creek Nursing Center**

Description:

Approval is requested for a Business Associate Agreement with Bear Creek Nursing Center for students in the Pasco County Schools Health Occupations Program to comply with Privacy and Security of Protected Health Information.

Action Requested:

School Board approval of a Business Associate Agreement with Bear Creek Nursing Center on November 5, 2013.

Recommendations:

The staff respectfully requests approval of a Business Associate Agreement with Bear Creek Nursing Center.

RA:rmh

Attachments

BUSINESS ASSOCIATE AGREEMENT

This BUSINESS ASSOCIATE AGREEMENT ("Agreement") is made and entered into this 5 day of NOVEMBER 2013 (the "Effective Date"), by and between Bear Creek Nursing Center ("Covered Entity") and District School Board of Pasco County ("Business Associate").

WHEREAS Covered Entity may be considered a "covered entity" as defined in 45 CFR Parts 160 and 164; and

WHEREAS Business Associate may be considered a "business associate" of Covered Entity as defined in 45 CFR Parts 160 and 164; and

WHEREAS Business Associate provides services to or on behalf of Covered Entity that may require Covered Entity to disclose the individually identifiable health information of individuals to Business Associate or may require Business Associate to create health information on behalf of Covered Entity; and

WHEREAS it is the policy of Covered Entity to protect the confidentiality of individually identifiable health information, and to disclose such information only under circumstances and in a manner that is permissible or required by law, and to require the same of any and all business associates with whom it contracts; and

WHEREAS this Agreement addresses the conditions under which Covered Entity will disclose and Business Associate will obtain and use an individual's health information;

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Definitions

The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required By Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

1.1. **Business Associate.** "Business Associate" shall have the same meaning as the term "business associate" at 45 CFR 160.103, and in reference to the party to this Agreement, shall mean [Insert Name of Business Associate].

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- 1.2. **Covered Entity.** "Covered Entity" shall have the same meaning as the term "covered entity" at 45 CFR 160.103, and in reference to the party to this Agreement, shall mean [Insert Name of Center].
- 1.3. **HIPAA Rules.** "HIPAA Rules" shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.

2. **Obligations and Activities of Business Associate**

- 2.1. **Use and Disclosure of PHI.** Business Associate agrees to not use or disclose protected health information other than as permitted or required by this Agreement or as required by law.
- 2.2. **Safeguards and Security Rule Compliance.** Business Associate agrees to use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information, to prevent use or disclosure of protected health information other than as provided for by this Agreement.
- 2.3. **Reporting Non-permitted Uses and Disclosures.** Business Associate agrees to immediately report to Covered Entity any use or disclosure of protected health information not provided for by this Agreement of which it becomes aware, including breaches of unsecured protected health information as required at 45 CFR 164.410, and any security incident of which it becomes aware.
- 2.4. **Subcontractors.** Business Associate may disclose protected health information to a business associate that is a subcontractor and may allow the subcontractor to create, receive, maintain, or transmit protected health information on its behalf, if Business Associate enters into a written agreement in which the subcontractor. Business Associate agrees to ensure that, in accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, any subcontractors that create, receive, maintain, or transmit protected health information on behalf of Business Associate agree to the same restrictions, conditions, and requirements that apply to Business Associate with respect to such information.
- 2.5. **Access to Designated Record Sets.** Business Associate agrees to provide access, at the request of Covered Entity, protected health information in a designated record set to Covered Entity or, as directed by Covered Entity, to an individual as necessary to satisfy Covered Entity's obligations under 45 CFR 164.524.
- 2.6. **Amendments to Protected Health Information.** Business Associate agrees to make any amendment(s) to protected health information in a designated record set as directed or agreed to by Covered Entity pursuant to 45 CFR 164.526, or take other measures as necessary to satisfy Covered Entity's obligations under 45 CFR 164.526.

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- 2.7. **Accountings of Disclosures.** Business Associate agrees to document the disclosures of protected health information and information related to those disclosures as would be required for Covered Entity to respond to a request by an individual for an accounting of disclosures of protected health information in accordance with 45 CFR 164.528. If an individual makes such a request, Business Associate agrees to make available to Covered Entity the information required for Covered Entity to respond to that individual's request for an accounting of disclosures and to do so in time and manner specified by Covered Entity so that Covered Entity may respond to the request in accordance with the requirements of 45 CFR 164.528.
- 2.8. **Covered Entity's Obligations.** To the extent Business Associate is to carry out one or more of Covered Entity's obligation(s) under Subpart E of 45 CFR Part 164, Business Associate agrees to comply with the requirements of Subpart E that apply to Covered Entity in the performance of such obligation(s).
- 2.9. **Availability of Information.** Business Associate agrees to make its internal practices, books, and records available to the Secretary for purposes of determining compliance with the HIPAA Rules.
- 2.10. **Mitigation.** Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of protected health information by Business Associate in violation of the requirements of this Agreement.
- 2.11. **Minimum Necessary.** When using, disclosing, or requesting protected health information, Business Associate agrees to make reasonable efforts to limit the protected health information to the minimum necessary, in accordance with the requirements of Subpart E of 45 CFR Part 164, to accomplish the intended purpose of the use, disclosure, or request.
- 2.12. **Prohibited Uses and Disclosures.** Business Associate agrees not to use or disclose protected health information for fundraising or marketing purposes as those terms are defined in the HIPAA Rules. Business Associate shall not directly or indirectly receive remuneration in exchange for protected health information, except with prior written consent of Covered Entity; but this prohibition shall not affect payment by Covered Entity for Business Associate for services provided pursuant to the service agreement. Business Associate shall not disclose protected health information to a health plan for payment or health care operations purposes if the individual has requested this restriction and has paid in full for the health care item or service to which the protected health information solely relates.

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3. **Permitted Uses and Disclosures by Business Associate**

- 3.1. Business Associate may only use or disclose protected health information as necessary to perform functions, activities, or services for, or on behalf of, Covered Entity set forth in any service agreement currently in place.
- 3.2. Business Associate may use or disclose protected health information as required by law.
- 3.3. Business Associate agrees to make uses and disclosures and requests for protected health information consistent with Covered Entity's minimum necessary policies and procedures.
- 3.4. Business Associate may not use or disclose protected health information in a manner that would violate Subpart E of 45 CFR Part 164 if done by Covered Entity, except for the specific uses and disclosures set forth in Sections 3.5 – 3.7 of this Agreement.
- 3.5. Business Associate may use protected health information for its proper management and administration or to carry out its legal responsibilities.
- 3.6. Business Associate may disclose protected health information for its proper management and administration or to carry out its legal responsibilities, provided the disclosures are required by law, or Business Associate obtains reasonable assurance from the person to whom the information is disclosed that the information will remain confidential and used or further disclosed only as required by law or for purposes for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- 3.7. Business Associate may provide data aggregation services relating to the health care operations of Covered Entity.

4. **Obligations of Covered Entity**

- 4.1. Covered Entity shall notify Business Associate of any limitation(s) in the notice of privacy practices of Covered Entity under 45 CFR 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of protected health information.
- 4.2. Covered Entity shall notify Business Associate of any changes in, or revocation of, the permission by an individual to use or disclose his or her protected health information, to the extent that such changes may affect Business Associate's use or disclosure of protected health information.



- 4.3. Covered Entity shall notify Business Associate of any restriction on the use or disclosure of protected health information that Covered Entity has agreed to or is required to abide by under 45 CFR 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of protected health information.

5. **Permissible Requests by Covered Entity**

Covered Entity shall not request Business Associate to use or disclose protected health information in any manner that would not be permissible under Subpart E of 45 CFR Part 164 if done by Covered Entity, except that, when the service agreement requires the use or disclosure of protected health information for data aggregation, for its proper management and administration, or to carry out its legal responsibilities, Business Associate may use or disclose protected health information for those purposes.

6. **Term and Termination**

- 6.1. **Term.** The Term of this Agreement shall be effective as of the Effective Date, and shall terminate on the date Covered Entity terminates for cause as authorized in Section 6.2 of this Agreement or when the service agreement terminates, whichever is sooner.
- 6.2. **Termination for Cause.** Covered Entity may terminate this Agreement if it reasonably determines that Business Associate has violated a material term of this Agreement and Business Associate has not cured the breach or ended the violation within the time specified by Covered Entity.
- 6.3. **Obligations of Business Associate Upon Termination.** Upon termination of this Agreement for any reason, Business Associate, with respect to protected health information received from Covered Entity, or created, maintain, or received by Business Associate on behalf of Covered Entity, shall:
- (a) Retain only that protected health information which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities;
 - (b) Return to Covered Entity or destroy any remaining protected health information that Business Associate still maintains in any form;
 - (c) Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information to prevent use or disclosure of the protected health information, other than as provided for in this Section, for as long as Business Associate retains the protected health information;
 - (d) Not use or disclose the protected health information it retains other than for the purposes for which such protected health information was retained and subject to the same restrictions as set out at Sections 3.5 and 3.6 which applied prior to termination; and

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AND APPROVED:

[Signature] 10.10.13

- (e) Return to Covered Entity or destroy the protected health information it retains when it is no longer needed for its proper management and administration or to carry out its legal responsibilities.

6.4. **Survival.** The obligations of Business Associate under this Section shall survive the termination of this Agreement.

7. Miscellaneous

7.1. **Regulatory References.** References made in this Agreement to a section in the HIPAA Rules means the section as in effect or as amended.

7.2. **Amendment.** The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for compliance with the requirements of the HIPAA Rules and any other applicable law.

7.3. **Interpretation.** Any ambiguity in this Agreement shall be interpreted to permit compliance with the HIPAA Rules.

7.4. **No Third Party Beneficiaries.** Nothing in this Agreement shall be deemed to confer or shall confer on any person or entity other than the Parties any rights, remedies, obligations, or liabilities whatsoever.

7.5. **Prior Business Associate Agreements Void.** Any and all prior Business Associate Agreements between the parties are hereby declared to be void and of no further effect.

7.6. **Waiver of Breach.** The waiver by either Party of a breach or violation of any provision of this Agreement shall not operate as, or be construed to be a waiver of any subsequent breach of the same or other provision hereof.

7.7. **Severability.** In the event any provision of this Agreement is held to be unenforceable for any reason, the unenforceability thereof shall not affect the remainder of this Agreement, which shall remain in full force and effect and enforceable in accordance with its terms.

7.8. **Indemnification.** Business Associate will indemnify and hold Covered Entity (including Covered Entity's Board of Directors, individually and collectively, and its owners, members, employees, agents, and other representatives, individually and collectively) harmless from and against all claims, demands, costs, expenses, liabilities and losses, including attorneys' fees and punitive damages which may arise against Covered Entity as a result of any violation of this Agreement.

7.9. **Binding Effect.** This Agreement shall be binding upon the parties hereto and their respective successors and assigns.

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IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date written above.

Covered Entity

Christopher Gahl Angly
(Signature)

Christopher Gonzalez
(Print Name)

Administrator
(Title)

Business Associate

(Signature)

(Print Name)

(Title)

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10.10.13



DISTRICT SCHOOL BOARD OF PASCO COUNTY

Kurt S. Browning, Superintendent of Schools

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MEMORANDUM
CTE-032-13/14

November 5, 2013

To: Michael Woodall, Purchasing Agent

From: Rob Aguis, Director, Office for Career & Technical Education RA / BD

Subject: **Business Associate Agreement with Consulate Health Care of New Port Richey**

Description:

Approval is requested for a Business Associate Agreement with Consulate Health Care of New Port Richey for students in the Pasco County Schools Health Occupations Program to comply with Privacy and Security of Protected Health Information.

Action Requested:

School Board approval of a Business Associate Agreement with Consulate Health Care of New Port Richey on November 5, 2013.

Recommendations:

The staff respectfully requests approval of a Business Associate Agreement with Consulate Health Care of New Port Richey.

RA:rmh

Attachments

**BUSINESS ASSOCIATE AGREEMENT
PRIVACY AND SECURITY OF PROTECTED HEALTH INFORMATION**

This Business Associate Agreement ("Agreement") is made effective the 5th day of November, 2013 ("Effective Date"), by and between District School Board of Pasco County, the Covered Entity ("CE") located at 7227 Land O' Lakes Blvd, Land O' Lakes FL. 34638, and Consulate Health Care of New Port Richey, the Business Associate ("BA") located at 8417 Old CR 54, New Port Richey, FL. 34653.

In consideration of the mutual promises below and the exchange of information pursuant to this Agreement, the parties agree as follows:

I. DEFINITIONS

Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms in the Privacy Rule and the Security Rule. In the event of a conflict between the definitions in this Agreement and the definitions in the Privacy Rule and the Security Rule, the definitions in the Privacy Rule and the Security Rule shall be applied.

Availability means that data or information is accessible and useable upon demand by an authorized person.

BA "Business Associate" shall generally have the same meaning as the term "business associate" at 45 CFR 160.103, and in reference to the party to this Agreement, as referenced above.

CE "Covered Entity" shall include the CE's shareholders, directors, officers, employees, successor and assigns. "Covered Entity" shall generally have the same meaning as the term "covered entity" at 45 CFR 160.103, and in reference to the party to this Agreement, as referenced above.

Confidentiality means that data or information is not made available or disclosed to unauthorized persons or processes.

Data Aggregation means, with respect to PHI created or received by an BA in its capacity as a business associate of a CE, the combining of such PHI by the BA with the PHI received by the BA in its capacity as a business associate

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of another covered entity, to permit data analyses that relate to the health care operations of the respective covered entities.

Disclose or Disclosure means the release, transfer, provision of access to, or divulging in any other manner of PHI to parties outside the BA's organization.

Individual means the person who is the subject of PHI and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).

Integrity means that data or information has not been altered or destroyed in an unauthorized manner.

Privacy Rule means the Standards for Privacy of Individually Identifiable Health Information at 45 CFR 160 and 164, Subparts A and E, as amended by HITECH.

Protected Health Information ("PHI") has the same meaning as this term has in 45 CFR 160.103 (as amended by the HITECH Act), limited to the information created or received by BA from or on behalf of CE. It includes PHI that is transmitted by or maintained in any electronic media known as Electronic Protected Health Information.

Required By Law means a mandate contained in the law that compels a covered entity to make a use or disclosure of PHI and that it is enforceable in a court of law.

Secretary means the Secretary of the Department of Health and Human Services ("HHS") or any other officer or employee of HHS to whom the authority involved has been delegated.

Security Incident means the attempted or successful unauthorized access, Use, Disclosure, modification, or destruction of PHI or interference with information system operations that contains PHI.

Security Rule means the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR 160 and 164, Subparts A and C.

Use means the sharing, employment, application, utilization, examination, or analysis of PHI within the BA's organization.

CONTRACT REVIEWED
AND APPROVED:
Law 10-10-13

II. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE

1. Nondisclosure. BA shall not Use or Disclose CE's PHI otherwise than as permitted or required by this Agreement or as Required By Law.

2. Minimum Necessary. BA shall Use or further Disclose PHI only in the minimum amount and to the minimum number of individuals necessary to achieve the purpose of the services being rendered to or on behalf of CE.

3. Safeguards. BA will develop, implement, maintain, and use administrative, technical, and physical safeguards that reasonably and appropriately protect the Confidentiality, Integrity, and Availability of PHI that BA creates, receives, maintains, or transmits on CE's behalf as required by the Security Rule and comply with Subpart C of 45 CFR 164 with respect to electronic protected health information, to prevent Use or Disclosure of PHI other than as provided for by this Agreement.

4. Reporting of Unauthorized Disclosures. BA shall report to CE any Use or Disclosure of PHI not provided for by this Agreement of which it becomes aware, including breaches of unsecured PHI as required at 45 CFR 164.410, and any Security Incident of which it becomes aware.

5. Mitigation. BA shall mitigate, to the extent practicable, any harmful effect that is known to BA of a Use or Disclosure of PHI by BA in violation of the requirements of this Agreement.

6. BA's Agents and Subcontractors. In accordance with 45 CFR 164.502(e)(1)(ii), 164.308(b)(2) and 164.314(a), if applicable, BA shall ensure that any agents, including subcontractors, that create, receive, maintain, or transmit PHI on behalf of BA, agree to the same restrictions and conditions that apply to BA through this Agreement with respect to such PHI. BA may Disclose PHI to those of its agents and subcontractors who have been previously approved by CE, have executed an agreement containing a provision substantially conforming to the Confidentiality and other related terms of this Agreement and who reasonably need to know such information in order to perform obligations under this Agreement and, in such case, only the minimum amount of such PHI as is necessary. BA shall make such agreements with its agents and subcontractors available upon request of CE. The acts or omissions of BA's agent and/or subcontractors shall be deemed the acts and omissions of BA.

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7. Access to PHI. BA shall provide access, at the request of CE, and in the time and manner designated by CE, to PHI to CE or, as directed by CE, to an Individual in order to meet the requirements under 45 CFR 164.524. This provision applies only to PHI received or created by BA pursuant to this Agreement, if BA possesses such PHI.

8. Documentation of Disclosures. BA shall document such Disclosure of PHI and information related to such Disclosure as would be required for CE to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR 164.528.

9. Accounting of Disclosures. BA shall provide to CE or an Individual, in time and manner designated by CE, information collected by BA, to permit CE to respond to a request by an Individual for an accounting of Disclosure of PHI in accordance with 45 CFR 164.528.

10. Amendment of PHI. BA shall make any amendment(s) to PHI that the CE directs or agrees to pursuant to 45 CFR 164.526 at the request of CE or an Individual, and in the time and manner designated by CE. This provision applies only to PHI received or created by BA pursuant to this Agreement, if BA possesses such PHI.

11. Internal Practices. BA shall make its internal practices, books and records relating to the Use and Disclosure of PHI received from CE, or created or received by BA on behalf of CE, available to the CE, or to the Secretary, for purposes of the Secretary determining CE's compliance with HIPAA.

12. HITECH. BA acknowledges that, as a business associate, it is responsible to comply with the HIPAA Security and Privacy regulations pursuant to Subtitle D of the Health Information Technology for Economic and Clinical Health Act (HITECH), including 45 CFR 164.308, 164.310, 164.312 and 164.316.

13. Privacy of Individually Identifiable Health Information. To the extent the BA is to carry out one or more of CE's obligation(s) under Subpart E of 45 CFR Part 164, BA shall comply with the requirements of Subpart E that apply to CE in the performance of such obligation(s).

CONTRACT REVIEWED
AND APPROVED:
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III. PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE

1. Permitted Uses and Disclosures. Except as otherwise limited in this Agreement, BA may Use or Disclose PHI to perform functions, activities, or services for, or on behalf of CE, provided such Use or Disclosure would not violate the Privacy Rule if done by the CE. BA may also Use or Disclose PHI as Required By Law. BA may not Use or Disclose PHI in a manner that would violate Subpart E of 45 CFR 164 if done by CE, except for the specific uses and disclosures set forth below in Section III (2), (3), (4) and (5).

2. Use for Management and Administration. Except as otherwise limited in this Agreement, BA may Use PHI for the proper management and administration of the BA or to carry out the legal responsibilities of the BA in compliance with 45 CFR 164.504(e)(4)(ii).

3. Disclosure for Management and Administration. Except as otherwise limited in this Agreement, BA may Disclose PHI for the proper management and administration of the BA or to carry out the legal responsibilities of the BA, provided that:

a. Disclosures are Required By Law; or

b. BA obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and will be used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and

c. The person notifies the BA of any instances of which it is aware in which the Confidentiality of the information has been breached.

4. Data Aggregation. Except as otherwise limited in this Agreement, BA may Use PHI to provide Data Aggregation services to CE relating to the health care operations of the CE as permitted by 45 CFR 164.504(e)(2)(i)(B).

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5. Other Permitted Uses. Except as otherwise limited in this Agreement, BA may Use or Disclose PHI for the limited purposes provided for in any other current and future contracts between the BA and CE, so long as that use does not violate HIPAA. Should any limited purposes of the Use or Disclosure of PHI, in any current or future contract between the BA and CE, be more restrictive than the permitted Use and Disclosure of this Agreement, then the more restrictive language contained in such contract shall apply.

6. Report Violations of Law. Except as otherwise limited in this Agreement, BA may Use PHI to report violations of law appropriate to Federal and State authorities consistent with 45 CFR 164.502(j)(1).

IV. OBLIGATIONS OF COVERED ENTITY

1. Notice of Privacy Practices. Upon request, CE shall provide BA with the notice of privacy practices that CE produces in accordance with 45 CFR 164.520, as well as any changes to such notice.

2. Changes in Permission. CE shall notify BA of any changes in, or revocation of, permission by Individual to Use or Disclose PHI, to the extent that such changes may affect BA's Use or Disclosure of PHI.

3. Notification of Restrictions. CE shall notify BA of any restriction to the Use or Disclosure of PHI that CE has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect BA's Use or Disclosure of PHI.

V. PERMISSIBLE REQUESTS BY COVERED ENTITY

1. Requests by Covered Entity. CE shall not request BA to Use or Disclose PHI in any manner that would not be permissible under Subpart E of 45 CFR 164 if done by CE, unless BA is to Use or Disclose PHI for data aggregation or management and administration and legal responsibilities of the BA.

2. Audits, Inspection and Enforcement. From time to time upon reasonable notice, CE may inspect the facilities, systems, books and records of BA to monitor compliance with this Agreement. BA shall promptly remedy any violation of any term of this Agreement and shall certify the same to CE in writing. The fact that CE inspects, or

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LW 10.10.13

fails to inspect, or has the right to inspect, BA's facilities, systems and procedures does not relieve BA of its responsibility to comply with this Agreement, nor does CE's (i) failure to detect or (ii) detection.

VI. TERM AND TERMINATION

1. Term. The Term of this Agreement shall be effective as of the Effective Date and shall remain in effect as long as BA or any of BA's agents and/or subcontractors retains CE's PHI or on the date CE terminates for cause as authorized in Section VI(2).

2. Termination for Cause. Upon CE's knowledge of a material breach by BA or any of BA's agents and/or subcontractors, CE shall either:

a. Give written notice of such breach and provide a reasonable time period for BA to cure the breach or end the violation and if BA does not cure the breach or end the violation within the time specified by CE, terminate this Agreement; or,

b. immediately terminate this Agreement if cure is not possible; or,

c. report the violation to the Secretary if neither cure of the breach nor termination of this Agreement are feasible.

3. Obligations of Business Associate Upon Termination. Upon termination of this Agreement for any reason, BA shall return to CE or, if agreed to by CE, destroy all PHI received from CE, or created, maintained, or received by BA on behalf of CE, that the BA and/or its agents and subcontractors, still maintains in any form. BA and/or its agents and subcontractors shall retain no copies of the PHI.

VII. INDEMNIFICATION

BA shall indemnify and hold harmless CE from and against all penalties or damages resulting from, or relating to, the acts or omissions of BA in connection with the representations, duties and obligations of BA under this Agreement.

VIII. MISCELLANEOUS

1. Amendment. Both BA and CE agree to take such action as is necessary to amend this Agreement from time to time for CE to comply with the requirements of HIPAA and any other applicable law.

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AND APPROVED:

2010-10-13

2. Survival. The respective rights and obligations of BA under Section VI(3) and VII of this Agreement shall survive the termination of this Agreement.
 3. Interpretation. This Agreement shall be interpreted as broadly as necessary to implement and comply with HIPAA and applicable state laws. The parties agree that any ambiguity in this Agreement shall be resolved in favor of a meaning that permits CE to comply with HIPAA and applicable state laws.
 4. Assistance in Litigation or Administrative Proceedings. BA shall make itself, and any subcontractors, employees or agents assisting BA in the performance of its obligations under this Agreement, available to CE, at no cost to CE, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against CE, its directors, officers or employees, based upon claimed violation of the Security Rule and/or the Privacy Rule, except where BA or its subcontractor, employee or agent is a named adverse party.
 5. No Third Party Beneficiaries. Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than CE or BA, any rights, remedies, obligations, or liabilities whatsoever.
 6. Notices. Any notice or other communication required to be provided by or to either party herein shall be in writing and may be delivered by (i) a nationally recognized courier/overnight delivery service, or (ii) by certified mail with return receipt requested. If notices are delivered by courier/overnight delivery, it will be deemed delivered as of the next business day. If notices are delivered by certified mail, it will be deemed delivered three (3) days from the date of mailing. Notices may be sent to the address set forth in the beginning of this Agreement.
- IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the Effective Date.

COVERED ENTITY

By: K. Walsh
 Print Name: Kathleen Walsh
 Title: Executive Director
 Date: 10/2/13

BUSINESS ASSOCIATE

By: _____
 Print Name: _____
 Title: _____
 Date: _____

CONTRACT REVIEWED
 AND APPROVED:
EW 10-10-13