

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (“Agreement”) is entered into on [Month]_____, [Day]_____ 2014 (the “effective Date”), by and between **Accreditation Association for Ambulatory Health Care, Inc., an Illinois not for profit corporation** (“AAAHC” and “Business Associate”) and _____ (“Covered Entity”).

WHEREAS, Business Associate may Access and review Protected Health Information as defined below in order to perform its obligations relating to the accreditation survey process as described in the AAAHC Application for Survey and the current edition of the AAAHC Accreditation Handbook to which Covered Entity is subject, and any other activities pertaining to accreditation of the Covered Entity (“Accreditation Services”);

WHEREAS, Covered Entity and Business Associate are required to meet the requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191 (the “Act”), the privacy standards adopted by the U.S. Department of Health and Human Services (“HHS”) as they may be amended from time to time, 45 C.F.R. parts 160 and 164, subparts A and E (the “Privacy Rule”) the security standards adopted by HHS as they may be amended from time to time, 45 C.F.R. parts 160, 162, and 164, subpart C (the “Security Rule”), and the privacy provisions (Subtitle D) of the Health Information Technology for Economic and Clinical Health Act, Division A, Title XIII of Pub. L. 111-5, and its implementing regulations (the “HITECH ACT”), due to their status as a “Covered Entity” or a “Business Associate” under the Act. (The Act, the Privacy Rule, the Security Rule, the HITECH Act, and the HIPAA Omnibus Rules are collectively referred to as “HIPAA” for purposes of this Agreement.);

WHEREAS, the parties desire to enter into the Agreement in order (i) to protect the privacy and provide for the security of Protected Health Information Used by Business Associate on behalf of Covered Entity; and (ii) to satisfy certain requirements imposed upon the parties by HIPAA.

1. Definitions

Catch-all definition:

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

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

Business Associate agrees to:

- (a) Not Use or Disclose Protected Health Information other than as permitted or required by the Agreement or as Required by Law;
- (b) 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 the Agreement;
- (c) Report to Covered Entity any Use or Disclosure of Protected Health Information not provided for by the 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 within ten (10) business days of discovery, as defined at 45 CFR 164.404(a)(2);
- (d) In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any Subcontractors that create, receive, maintain, or transmit Protected Health Information on behalf of the Business Associate agree to the same restrictions, conditions, and requirements that apply to the Business Associate with respect to such information;
- (e) Within ten (10) business days of a request, make available Protected Health Information in a Designated Record Set to the Individual as necessary to satisfy Covered Entity's obligations under 45 CFR 164.524;
- (f) Make any amendment(s) to Protected Health Information in a Designated Record Set as directed or agreed to by the 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;
- (g) Maintain, and within ten (10) business days of a request, make available the information required to provide an accounting of disclosures to the individual as necessary to satisfy Covered Entity's obligations under 45 CFR 164.528;
- (h) To the extent the Business Associate is to carry out one or more of Covered Entity's obligation(s) under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligation(s); and
- (i) Make its internal practices, books, and records available to the Secretary for purposes of determining compliance with the HIPAA Rules.

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

- (a) Business Associate may only Use or Disclose Protected Health Information as necessary to perform the services set forth in the AAAHC Application for Survey and the current edition of the AAAHC Handbook for Accreditation to which Covered Entity is subject, to the extent that neither conflicts with the requirements of the law.
- (b) Business Associate may Use or Disclose Protected Health Information as Required by Law.

(c) Business Associate agrees to make Uses and Disclosures and requests for Protected Health Information in accordance with any requirements of the law.

(d) 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 below:

(e) Business Associate may Use Protected Health Information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the business associate.

(f) Business Associate may Disclose Protected Health Information for the proper management and administration of Business Associate or to carry out the legal responsibilities of the Business Associate, provided the Disclosures are Required by Law, or Business Associate obtains reasonable assurances 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 the 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 may have been Breached and of any Security Incidents.

(g) Business Associate may provide data aggregation services relating to the Health Care Operations of the Covered Entity.

4. Provisions for Covered Entity to Inform Business Associate of Privacy Practices and Restrictions

(a) 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.

(b) 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.

(c) 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 exception if the Business Associate will Use or Disclose Protected Health Information for data aggregation or management and administration and legal responsibilities of the Business Associate.

6. Term and Termination

- (a) Term. This Agreement shall take effect upon the date first written above and shall continue in effect as long as Business Associate evaluates Covered Entity for accreditation purposes, unless terminated as provided in Subsection 9.2.
- (b) Termination for Breach. Either party may terminate this Agreement if it determines that the other party has breached a material term of this Agreement. Alternatively, the non-breaching party may choose to provide the breaching party with notice of the existence of an alleged material breach and afford an opportunity to cure the material breach. If the breaching party fails to cure the breach to the satisfaction of the non-breaching party, the non-breaching party may immediately thereafter terminate this Agreement and report the breaching party to the Secretary.
- (c) Effect of Termination and Obligations of Business Associate Upon Termination. Immediately upon termination of this Agreement for any reason, Business Associate shall cease further Use or Disclosure of such Protected Health Information, if any, and Business Associate will return or destroy all Protected Health Information received from Covered Entity or created or received by Business Associate on behalf of Covered Entity that Business Associate still maintains and will retain no copies of that Protected Health Information. However, if return or destruction of such Protected Health Information is not feasible, upon agreement of the parties, Business Associate will extend the protections of this Agreement to the Protected Health Information and will limit further Uses and Disclosures to those purposes that make the return or destruction of the information infeasible.
- (d) Upon termination of this Agreement for any reason, Business Associate, with respect to Protected Health Information received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity, shall:
- (i) 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;
 - (ii) Return to Covered Entity, or, if agreed to by Covered Entity, destroy the remaining Protected Health Information that the Business Associate still maintains in any form;
 - (iii) 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 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;

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(iv) Not Use or Disclose the Protected Health Information retained by Business Associate other than for the purposes for which such Protected Health Information was retained and subject to the same conditions set out at paragraphs (e) and (f) above under “Permitted Uses and Disclosures by Business Associate which applied prior to termination.

(v) Return to Covered Entity or, if agreed to by Covered Entity, destroy the Protected Health Information retained by Business Associate when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities.

(e) Survival. The obligations of Business Associate under this Section shall survive the termination of this Agreement.

7. Miscellaneous

(a) Regulatory References. A reference in this Agreement to a section in the HIPAA Rules means the section as in effect or as amended.

(b) Interpretation. Any ambiguity in this Agreement shall be interpreted to permit both parties’ compliance with the HIPAA Rules.

(c) Notices. Any notice required or permitted to be given by either party to the other shall be in writing and shall be deemed delivered upon personal delivery (or attempted personal delivery, if the recipient refuses delivery) or delivery by fax, twenty-four (24) hours following deposit with a national courier service for overnight delivery or seventy-two (72) hours following deposit in the U.S. Mail, registered or certified mail, postage prepaid, return-receipt requested, addressed to the parties at the following address or to such other addresses as the parties may specify in writing.

Address for Notices:

As to Business Associate:

As to Covered Entity:

Addresses for Notices:
ATTN: Legal Department
AAAHC
5250 Old Orchard Road
Suite 200
Skokie, IL 60077

Addresses for Notices:

IN WITNESS WHEREOF, the parties have executed this agreement effective as of the date first set forth above.

Covered Entity

Business Associate

By: _____

By: _____

Title: _____

Title: _____

AAAHC Organization ID# _____