

BUSINESS ASSOCIATE CONTRACT

This Business Associate Contract (“Contract”), is entered into by the Board of Regents of the University of Wisconsin System, on behalf of the University of Wisconsin-Madison, School of Medicine and Public Health, Departments of Family Medicine and Public Health (“Business Associate”) and _____ (“Clinic”) collectively known as the “Parties.” This Contract is intended to govern the manner in which the Business Associate uses and discloses Protected Health Information obtained from or on behalf of Clinic as part of the Wisconsin Initiative to Promote Health Lifestyles Project (“WIPHL”), a quality improvement project to improve referral and treatment by primary care providers for substance abuse and other risky health behaviors.

Both Parties are committed to using and disclosing Protected Health Information in compliance with the Standards for Privacy of Individually Identifiable Health Information (“Privacy Rule”) (45 C.F.R. Parts 160 and 164) under the Health Insurance Portability and Accountability Act of 1996. The definitions set forth in the Privacy Rule are incorporated by reference into this Contract (45 C.F.R. §§ 160.103 and 164.501).

The Parties mutually agree to the following provisions:

A. Permitted Uses or Disclosures of Protected Health Information

1. Except as otherwise limited in this Contract, Business Associate may use or disclose Protected Health Information from Clinic to conduct screening and brief intervention for risk substance use and other health issues under the Screening, Brief Intervention, Referral and Treatment activities of WIPHL and to conduct program evaluation and mandated reporting of data from that program, provided that such use or disclosure would not violate the Privacy Rule if made by Clinic.
2. Except as otherwise limited in this Contract, Business Associate also 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.
3. Except as otherwise limited in this Contract, Business Associate also may disclose Protected Health Information if (a) such disclosures are required by law, or (b) Business Associate obtains reasonable assurances from the person to whom the information is disclosed that (i) the information 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 (ii) the person will notify the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

B. Obligations of Business Associate

1. Uses or Disclosures of Protected Health Information. Business Associate will neither use nor disclose Protected Health Information other than as permitted or required by this Contract, as otherwise authorized in writing by Clinic, or as required by law.
2. Safeguards for Protected Health Information. Business Associate will employ appropriate administrative, technical, and physical safeguards to prevent the use or disclosure of Protected Health Information other than as provided in this Contract.
3. Mitigate Harmful Effect. In consultation with Clinic, Business Associate will mitigate, to the extent possible, any harmful effect that is known to Business Associate related to the inappropriate use or disclosure of Protected Health Information.
4. Reporting Unauthorized Uses or Disclosures. Business Associate will provide a written report regarding any unauthorized uses or disclosures of Protected Health

Information to Clinic's HIPAA Privacy Officer (or other person, as designated by Clinic) within fifteen (15) business days of the discovery thereof or by some later date as mutually agreed upon by the Parties. The written report shall:

- a. Identify the Protected Health Information used or disclosed, and the nature of the use or disclosure;
- b. Describe the circumstances of the unauthorized use or disclosure; and
- c. Identify what measures the Business Associate proposes to take to mitigate any harm resulting from such unauthorized use or disclosure, and what Business Associate will do to prevent similar unauthorized uses or disclosures in the future.
- d. The address to send the report is:

(Add name and address of Clinic Privacy Officer or other recipient as designated by Clinic)

5. Subcontractors and Other Agents. Business Associate will ensure that any agents and subcontractors to whom it provides Protected Health Information received from Clinic or created or received by the Business Associate on behalf of Clinic agree in a written contract to the same restrictions and conditions that apply to the Business Associate with respect to such information.
6. Access to Individual's Protected Health Information. If Business Associate maintains information that is part of a designated record set, as defined in the Privacy Rule, Business Associate will make this information available to Clinic, or, at Clinic's direction, to the individual, within fifteen (15) business days of request from Clinic, or by some later date as mutually agreed upon by the Parties. Business Associate will make this access available as necessary for Clinic to meet its obligations under 45 CFR § 164.524.
7. Amendment of Protected Health Information. If Business Associate maintains information that is part of a designated record set, Business Associate shall make this information available to Clinic for amendment and shall incorporate any amendments to this information within fifteen (15) business days of such request, or by some later date as mutually agreed upon by the Parties. Business Associate will facilitate these amendments as necessary for Clinic to meet its obligations under 45 CFR § 164.526.
8. Information Necessary for Accounting of Disclosures. Business Associate shall maintain an ongoing log of any disclosures of Protected Health Information it makes to any other person or entity, except disclosures (a) to carry out treatment, payment, or health care operations for or on behalf of Clinic; (b) to the individual who is the subject of the Protected Health Information so disclosed; or (c) to persons involved in that individual's health care or payment for health care. This log shall include the name and address of the person or organization receiving the information, a description of the information disclosed, and the reason why the information was disclosed. Business Associate will make this log available to Clinic as necessary for Clinic to meet its obligations under 45 CFR § 164.528.
9. Resources Necessary for HHS Secretary Determinations. Business Associate shall make internal procedures, books, and records relating to the use and disclosure of Protected Health Information received from Clinic, or created or received on behalf of Clinic, available to the Secretary of the Department of Health and Human Services ("Secretary") for purposes of determining Clinic's compliance with the Privacy Regulation. At Clinic's expense, Business Associate shall provide Clinic with copies of any information it has made available to the Department of Health and Human Services.
10. Sanctions. Business Associate shall implement and maintain sanctions for any employee, agent, or subcontractor who violates the terms of this Contract.

11. Compliance with Security Rule. Business Associate will comply with the following additional obligations, as prescribed in the HIPAA Security Rule, 45 C.F.R. Part 164, Subpart C, with respect to electronic Protected Health Information.
 - (a) Safeguards for Protected Health Information. Business Associate will employ appropriate administrative, technical, and physical safeguards to protect the confidentiality, integrity, and availability of the electronic Protected Health Information it creates, receives, maintains, or transmits for or on behalf of Clinic.
 - (b) Reporting Security Incidents. Business Associate will provide a written report regarding any security incidents, as defined in 45 C.F.R. § 164.304, involving electronic Protected Health Information, to Clinic's HIPAA Privacy Officer, in the manner described in subsection B(4), above.
 - (c) Subcontractors and Other Agents. Business Associate will ensure that any agents and subcontractors to whom it provides electronic Protected Health Information received from Clinic or created or received by the Business Associate on behalf of Clinic agrees in a written contract to implement safeguards with respect to such information as described in subsection B(11)(a), above.

C. Obligations of Clinic

1. When completed, and upon request, Clinic shall provide Business Associate with the notice of privacy practices that Clinic produces in accordance with 45 CFR § 164.520.
2. Clinic shall provide Business Associate with any changes in, or revocation of, permission by an individual to use or disclosure Protected Health Information, if such changes affect Business Associate's permitted or required uses or disclosures.
3. Clinic shall notify Business Associate of any restrictions to the use or disclosure of Protected Health Information that Clinic has agreed to in accordance with 45 CFR § 164.522.

D. Termination of the Agreement. Clinic may terminate all agreements with Business Associate if it determines that Business Associate has breached a material term of this Contract. Before termination, Clinic may choose to:

1. Provide Business Associate with thirty (30) days written notice of the existence of an alleged material breach; and
2. Afford Business Associate an opportunity to cure said material breach upon mutually agreeable terms.

E. Destruction of Protected Health Information upon End of Agreement.

1. Within a mutually agreed upon period of time after termination, cancellation, expiration, or other conclusion of this Contract, Business Associate shall, if appropriate or feasible, return or destroy all Protected Health Information received from, or created on behalf of, Clinic that Business Associate maintains in any form.
2. In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide notice to Clinic of the conditions that make the return or destruction infeasible. Upon mutual agreement of the Parties that the return or destruction of Protected Health Information is infeasible, Business Associate may continue to use such Protected Health Information for those purposes that make the return or destruction infeasible and shall continue to protect such Protected Health Information as required under this Contract for so long as the Business Associate maintains such Protected Health Information.

F. Amendment to Contract.

Upon the effective date of any amendment to final regulations promulgated by the U.S. Department of Health and Human Services with respect to Protected Health Information, this Contract will automatically amend such that the obligations it imposes on the Business Associate remain in compliance with these regulations.

IN WITNESS THEREOF, each of the undersigned has caused this Contract to be duly executed in its name and on its behalf effective as of _____, 200__.

CLINIC

By: _____

Print Name: _____

Print Title: _____

Date: _____

BUSINESS ASSOCIATE

By: _____

Print Name: _____

Print Title: _____

Date: _____