

Business Associate Agreement

This Agreement contains the terms and conditions governing CFCHS Providers, Subcontractors and Vendors' access to and use of Protected Health Information; and provides the permissible uses and disclosures of protected health information by the Provider, Subcontractor and Vendors also called "Business Associate."

Section 1. Definitions

A. Catch-all 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, Security Incident, Subcontractor, Unsecured Protected Health Information, Risk Analysis, Risk Assessment, and Use.

B. Specific definitions:

- a. "Business Associate" shall generally have the same meaning as the term "business associate" at 45 CFR 160.103, and for purposes of this Agreement shall specifically refer to the Provider.
- b. "Covered Entity" shall generally have the same meaning as the term "covered entity" at 45 CFR 160.103, and for purposes of this Agreement shall refer to Central Florida Cares Health System (CFCHS).
- c. "HIPAA Rules" shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.
- d. "Subcontractor" shall generally have the same meaning as the term "subcontractor" at 45 CFR § 160.103 and is defined as an individual to whom a business associate delegates a function , activity, service , other than in the capacity of a member of the workforce of such business associate.

Section 2. Obligations and Activities of Business Associate

A. Business Associate agrees to:

- a. Not use or disclose protected health information other than as permitted or required by this Agreement or as required by law;
- b. Use appropriate administrative safeguards as set forth at 45 CFR § 164.308, physical safeguards as set forth at 45 CFR § 164.310, and

technical safeguards as set forth at 45 CFR § 164.312; including, policies and procedures regarding the protection of PHI and/or ePHI set forth at 45 CFR § 164.316 and the provisions of training on such policies and procedures to applicable employees, subcontractors, consultants, and volunteers, that reasonably and appropriately protect the confidentiality, integrity, and availability of the PHI and/or ePHI that the Provider creates, receives, maintains or transmits on behalf of CFCHS;

- c. Acknowledge that (a) the foregoing safeguards, policies and procedures requirements shall apply to the Business Associate in the same manner that such requirements apply to CFCHS, and (b) the Business Associate's and their Subcontractors are directly liable under the civil and criminal enforcement provisions set forth at Section 13404 of the HITECH Act and section 45 CFR § 164.500 and 164.502(E) of the Privacy Rule (42 U.S.C. 1320d-5 and 1320d-6), as amended, for failure to comply with the safeguards, policies and procedures requirements and any guidance issued by the Secretary of Health and Human Services with respect to such requirements;
- d. 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, or potential breaches, of unsecured protected health information as required at 45 CFR 164.410, and any security incident of which it becomes aware;
- e. Notify CFCHS Contract Manager and submit an incident report into CFCHS data system IRMS as soon as possible, but no later than one (1)-business days following the determination of any breach or potential breach of personal and confidential departmental data;
- f. Notify CFCHS Contract Manager within (24) hours of notification by the US Department of Health and Human Services of any investigations, compliance reviews or inquiries by the US Department of Health and Human Services concerning violations of HIPAA (Privacy, Security Breach).
- g. Provide any additional information requested by CFCHS for purposes of investigating and responding to a breach; including a risk assessment that identifies the causes of the impermissible disclosure, the likelihood of data compromise due to the breach or potential breach, the mitigating circumstances the Business Associate is putting in place, and the protective measure that will be taken to avoid or minimize the likelihood of such incident from happening again.
- h. Provide at Business Associate's own cost notice to affected parties no later than 45 days following the determination of any potential breach of personal or confidential departmental data as provided in section 817.5681, F.S.;

- i. Implement at Business Associate's own cost measures deemed appropriate by CFCHS to avoid or mitigate potential injury to any person due to a breach or potential breach of personal and confidential departmental data;
- j. Take immediate steps to limit or avoid the recurrence of any security breach and take any other action pertaining to such unauthorized access or disclosure required by applicable federal and state laws and regulations regardless of any actions taken by CFCHS ;
- k. 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. Business Associate's must attain satisfactory assurance in the form of a written contract or other written agreement with their business associate's or subcontractor's that meets the applicable requirements of 164.504(e)(2) that the Business Associate or Subcontractor will appropriately safeguard the information. For prior contracts or other arrangements, the provider shall provide written certification that its implementation complies with the terms of 45 CFR 164.532(d);
- l. Make available protected health information in a designated record set to covered entity as necessary to satisfy covered entity's obligations under 45 CFR 164.524;
- m. 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;
- n. Maintain and make available the information required to provide an accounting of disclosures to the covered entity as necessary to satisfy covered entity's obligations under 45 CFR 164.528;
- o. 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
- p. Make its internal practices, books, and records available to the Secretary of the U.S. Department of Health and Human Services for purposes of determining compliance with the HIPAA Rules.

- q. An appropriately skilled individual shall be identified by the Business Associate to function as its Data Security Officer. The Data Security Officer shall act as a liaison and will maintain an appropriate level of data security for the information the Business Associate is collecting or using in the performance of this contract. An appropriate level of security includes approving and tracking all Business Associate employees that request or have access to any Client data system or information. The Data Security Officer will ensure that user access to the data system or information has been removed from all terminated Business Associate employees. In addition, the Data Security Officer will guide the Business Associate in developing a Risk Analysis to determine Business Associate level of Data security risk.
- r. The Business Associate shall provide the latest DCF Security Awareness Training to its staff and subcontractors who have access to Client information.
- s. All Business Associate employees who have access to Client information shall comply with, and be provided a copy of the DCF CFOP 50-2, and shall sign the DCF Security Agreement Form CF 0114 annually.
- t. The Business Associate shall make every effort to protect and avoid unauthorized release of any personal or confidential information by ensuring both data and storage devices are encrypted as prescribed in the DCF CFOP 50-2. If encryption of these devices is not possible, then the Business Associate shall assure that unencrypted personal and confidential Client data will not be stored on unencrypted storage devices. The Business Associate shall require the same of all subcontractors. This requirement includes encryption of mobile devices as well.

Section 3. Permitted Uses and Disclosures by Business Associate

- A. The Business associate may only use or disclose protected health information covered under this Agreement as listed below:
 - a. The Business Associate may use and disclose CFCHS's PHI and/or ePHI received or created by Business Associate (or its agents and subcontractors) in performing its obligations pursuant to its contract with CFCHS.
 - b. The Business Associate may use CFCHS' PHI and/or ePHI received or created by Business Associate (or its agents and subcontractors) for archival purposes.
 - c. The Business Associate may use PHI and/or ePHI created or received in its capacity as a Business Associate of CFCHS for the proper management

and administration of the Business Associate, if such use is necessary (a) for the proper management and administration of Business Associate or (b) to carry out the legal responsibilities of Business Associate.

- d. The Business Associate may disclose PHI and/or ePHI created or received in its capacity as a Business Associate of CFCHS for the proper management and administration of the Business Associate if (a) the disclosure is required by law or (b) the Business Associate (1) obtains reasonable assurances from the person to whom the PHI and/or ePHI is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person and (2) the person agrees to notify the Business Associate of any instances of which it becomes aware in which the confidentiality and security of the PHI and/or ePHI has been breached, or potentially breached.
- e. The Business Associate may aggregate the PHI and/or ePHI created or received pursuant this Agreement with the PHI and/or ePHI of other covered entities that Business Associate has in its possession through its capacity as a Business Associate of such covered entities for the purpose of providing CFCHS with data analyses relating to the health care operations of CFCHS (as defined in 45 C.F.R. §164.501).
- f. The Business Associate may de-identify any and all PHI and/or ePHI received or created pursuant to this Agreement, provided that the de-identification process conforms to the requirements of 45 CFR § 164.514(b).
- g. Follow guidance in the HIPAA Rule regarding marketing, fundraising and research located at Sections 45 CFR § 164.501, 45 CFR § 164.508 and 45 CFR § 164.514.
- h. Business Associate may use PHI to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR §164.502.

Section 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.

Section 5. Termination

A. Term

The Term of this Agreement shall be effective as of April 1, 2024 and shall terminate on March 31, 2025 or on the date covered entity terminates for cause as authorized in paragraph (B) of this Section, whichever is sooner.

B. Termination for Cause

- a. Upon CFCHS knowledge of a material breach by the Business Associate, CFCHS shall either:
 - i. Provide an opportunity for the Business Associate to cure the breach or end the violation. CFCHS shall terminate the Agreement or discontinue access to PHI if the Business Associate does not cure the breach or end the violation within the time specified by CFCHS; or
 - ii. Immediately terminate this Agreement or discontinue access to PHI if the Business Associate has breached a material term of this Agreement and does not end the violation.
- b. The Business Associate shall report the violation to the Secretary of the Department of Health and Human Services, and provide CFCHS written proof of such notification.

B. Obligations of Business Associate Upon Termination

- a. 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 other entity as specified by CFCHS or, if permission is granted by CFCHS, 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, other than as provided for in this Section, for as long as Business Associate retains the protected health information;
- 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 Section 3(A) above under "Permitted Uses and Disclosures By Business Associate" which applied prior to termination; and
- v. Return to covered entity, or other entity as specified by CFCHS or, if permission is granted by CFCHS, 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.
- vi. The obligations of business associate under this Section shall survive the termination of this Agreement.

Section 6. Miscellaneous

- A. A regulatory reference in this Agreement to a section in the HIPAA Rules means the section as in effect or as amended.
- B. 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.
- C. Any ambiguity in this Agreement shall be interpreted to permit compliance with the HIPAA Rules.

THIS SECTION INTENTIONALLY LEFT BLANK

Central Florida Cares Health System, Inc.

Maria Bledsoe, CEO

Date

Business Associate

BOARD OF COUNTY COMMISSIONER
ATTEST:

SEMINOLE COUNTY, FLORIDA

GRANT MALOY
Clerk to the Board of
County Commissioners of
Seminole County, Florida.

By: _____
JAY ZEMBOWER, Chairman

Date: _____

For the use and reliance
of Seminole County only.

As authorized for execution by the Board of
County Commissioners at its _____
20____, regular meeting.

Approved as to form and
legal sufficiency.

County Attorney