



TO: SOUTHERN NEVADA DISTRICT BOARD OF HEALTH **DATE:** February 25, 2016

RE: *Approval of Interlocal Agreement between the Southern Nevada Health District and Clark County by and through its Department of Family Services*

PETITION #06-16

That the Southern Nevada District Board of Health approves Interlocal Agreement between the Southern Nevada Health District and Clark County, by and through its Department of Family Services.

PETITIONERS:

Richard Cichy, Acting Chief Administrative Nurse *RWC*
Andrew J. Glass, FACHE, MS, Director of Administration *AG*
Joseph P. Iser, MD, DrPH, MSc, Chief Health Officer *JPI*

DISCUSSION:

Health District has partnered with the Southern Nevada Children First, Specialized Alternatives for Families and Youth, and Planned Parenthood of Southern Nevada to provide an array of medically accurate curricula with the goal of increasing HIV/AIDS and STI prevention and knowledge, and reducing the instances of teenage pregnancies. Clark County Department of Family Services has requested these curricula be provided at their facility for their foster youth and/or foster parents.

FUNDING:

No funding is required.



**INTERLOCAL AGREEMENT
BETWEEN
SOUTHERN NEVADA HEALTH DISTRICT
AND
CLARK COUNTY
SNHD-1-INT-16-054**

This Interlocal Agreement (“Agreement”) is entered into between the Southern Nevada Health District (“Health District”) and Clark County, by and through its Department of Family Services (“DFS”) (individually referred to as “Party,” and collectively, as “Parties”)

WHEREAS, pursuant to Nevada Revised Statutes (“NRS”) Chapter 439, the Health District is the public health authority for Clark County, Nevada and has jurisdiction over all public health matters therein; and

WHEREAS, DFS is a public agency with jurisdiction over all family services matters within Clark County, Nevada;

WHEREAS, NRS 277.180 provides that public agencies may enter into agreements to perform any governmental service, activity or undertaking with any of the public agencies are authorized by law to perform; and

WHEREAS, Health District in partnership with Southern Nevada Children First, Specialized Alternatives for Families and Youth, Inc. and Planned Parenthood of Southern Nevada has agreed to provide to DFS the services listed in Section 3: Scope of Services; and

WHEREAS, DFS desires to enter into a collaborative effort with Health District toward the goal of increasing HIV/AIDS and Sexually Transmitted Infections (“STI”) prevention knowledge.

NOW THEREFORE, Health District and DFS agree as follows:

1. PURPOSE

Health District in partnership with Southern Nevada Children First, Specialized Alternatives for Families and Youth and Planned Parenthood of Southern Nevada will facilitate an array of medically accurate curricula with the goal of increasing HIV/AIDS and STI prevention knowledge and reducing the instances of teenage pregnancies.

3. SCOPE OF SERVICES

3.01 Nothing in this Agreement is intended to lessen the responsibility of DFS or Health District or restrict either party's authority to act as provided by law or regulation.

3.02 For the term of this Agreement, Health District and its partners will:

- a) Submit a background check through DFS for every contractor employee providing the curricula.
- b) Provide facilitation of medically accurate curricula.
- c) Provide technical assistance to trained DFS staff or representatives.
- d) Provide trained and culturally competent facilitators.
- e) Monitor facilitator performance.
- f) Provide host site with program progress report.
- g) Follow the policies and procedures of the host site.
- h) Maintain participant confidentiality.
- i) Comply with NRS 432B mandatory reporting requirements.
- j) Provide participants with information and referral services as requested.
- k) Notify DFS and/or host site of any changes in policies and procedures.

3.03 For the term of this Agreement, DFS agrees to:

- a) Allow Health District and its partners to facilitate medically accurate curricula.
- b) Identify and refer DFS staff or representatives to receive fidelity training on evidence-based curricula.
- c) Refer foster youth and/or foster parents to Health District Teen Pregnancy Prevention Programs.
- d) Provide a venue for the delivery of the curricula.
- e) Obtain any required consents
- f) Recruit participants that meet program criteria.
- g) Provide a participant referral list prior to classes.

h) Notify Health District of any changes in policies and procedures.

4. POINT OF CONTACT

Each Party shall designate an individual to be responsible for communications and the granting of access related to this Agreement. All designations regarding access to data or changes in this Agreement must be submitted in writing.

5. TERM AND TERMINATION

5.01 The effective date of this Agreement is February 1, 2016 through June 30, 2020.

5.02 This Agreement may be terminated by either Party with or without cause upon 30-calendar days notice in writing to the other Party. Said notice shall be delivered by certified mail, return receipt requested, or in person with proof of delivery.

6. CONFIDENTIALITY

To comply with the Health Insurance Portability and Accountability Act of 1996, as amended by the Health Information Technology for Economic and Clinical Health Act, to protect the security, confidentiality, and integrity of protected health information, the Parties will execute a Business Associate Agreement, attached hereto as Attachment A, and incorporated by reference herein.

7. INDEPENDENT ENTITIES

The Parties are independent entities and nothing contained herein shall be construed or deemed to create a relationship of employer and employee, principal and agent, partners, or any relationship other than that of independent Parties voluntarily cooperating with each other solely for the purpose of carrying out the provisions herein.

8. THIRD PARTY INTEREST

The Parties do not intend to create in any other individual or entity the status of a third party beneficiary, and this Agreement shall not be construed to create such status. The rights, duties, and obligations contained in the Agreement shall operate only between the Parties to this Agreement, and shall inure solely to the benefit of the Parties determining and performing their obligations under this Agreement.

9. APPLICABLE LAW

The construction, interpretation, and enforcement of this Agreement shall be governed by the laws of the State of Nevada, with Clark County, Nevada as the exclusive venue of any action or proceeding related to or arising out of this Agreement.

10. AMENDMENTS OR MODIFICATIONS

This Agreement may be amended or modified at any time by written mutual agreement.

11. LIMITED LIABILITY

The Parties will not waive and intend to assert available NRS Chapter 41 liability limitations in all cases. Agreement liability of both Parties shall not be subject to punitive damages. To the extent applicable, actual agreement damages for any breach shall be limited by NRS 353.260 and NRS 354.626.

12. ASSIGNMENT

Neither Party may assign this Agreement without the prior written consent of the other Party.

13. INDEMNIFICATION

Neither Party waives any right or defense to indemnification that may exist in law or equity.

14. PUBLIC RECORDS

Pursuant to NRS 239.010, information or documents, including this Agreement, may be opened by the Parties to public inspection and copying. The Parties will have a duty to disclose unless a particular record is made confidential by law or a common law balancing of interests.

15. NOTICES

All notices permitted or required under this Agreement shall be made via U.S. certified mail or postage prepaid to the other Party at their address set out below:

Southern Nevada Health District
Financial Services Department
Materials Management Supervisor
P.O. Box 3902
Las Vegas, NV 89127

Clark County Department of Family Services
Gina Shanks
Clark County Management Analyst
301 E. Clark St.
Las Vegas, NV 89101

16. EXECUTION IN COUNTERPARTS

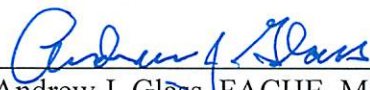
This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but which together shall constitute one instrument. Facsimile or electronic transmissions of documents and signatures shall have the same force and effect as originals.

17. AUTHORIZATION

The Parties hereto represent and warrant that the person executing this Agreement on behalf of each Party has full power and authority to enter into this Agreement and that the Parties are authorized by law to perform the services set forth herein.

BY SIGNING BELOW, the Parties agree that they have read, understand, and agree to the conditions set forth above and have caused their duly authorized representatives to execute this Agreement.

SOUTHERN NEVADA HEALTH DISTRICT CLARK COUNTY

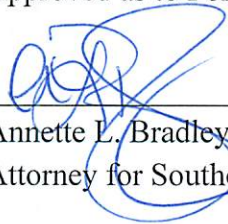
By: 
Andrew J. Glass, FACHE, MS
Director of Administration

By: _____
Adleen Stidhum
Clark County Purchasing Manager

Date: 1/20/16

Date: _____

Approved as to Form


Annette L. Bradley, Esq.
Attorney for Southern Nevada Health District

**ATTACHMENT A
BUSINESS ASSOCIATE AGREEMENT
BETWEEN
SOUTHERN NEVADA HEALTH DISTRICT
AND
CLARK COUNTY**

This Business Associate Agreement (“Agreement”) is made and entered into this ___ day of _____, 2015 between the Southern Nevada Health District (“Covered Entity”), and Clark County, by and through its Department of Family Services (“Business Associate”), (individually referred to as “Party” or collectively as “Parties”).

WITNESSETH:

WHEREAS, the Department of Health and Human Services (“HHS”) has promulgated regulations at 45 CFR Part 160 and 164, implementing the privacy and electronic security requirements set forth in the Administrative Simplification provision of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“HIPAA”); and

WHEREAS, Business Associate provides services to Covered Entity pursuant to one or more contractual relationships, said Agreements are detailed below and are hereinafter referred to as “Service Agreements,” and

WHEREAS, in the course of fulfilling its responsibilities under such Service Agreements, Business Associate may have access to, use, and/or disclose Protected Health Information (as defined below); and

WHEREAS, Service Agreements are hereby incorporated by reference and shall be taken and considered as a part of this document as if fully set out herein; and

WHEREAS, the enactment of the American Recovery and Reinvestment Act of 2009, Public Law 111-5 establishes certain requirements relating to the use, disclosure, and safeguarding of protected health information by persons providing services to Covered Entities, and both Parties have mutually agreed to satisfy such requirements through this Agreement; and

NOW THEREFORE, in consideration of the Parties continuing obligations under the Service Agreement(s) and other good and valuable consideration, the Parties mutually agree to the provisions of this Agreement to address the requirements of the HIPAA Rules, establish satisfactory assurances Business Associate will appropriately safeguard any Protected Health Information received from or on behalf of Covered Entity, and, therefore, execute this Agreement.

I. AGREEMENTS AFFECTED BY THIS BUSINESS ASSOCIATE AGREEMENT

Business Associate will provide services to Covered Entity pursuant to the following Agreements:

Interlocal Agreement between Southern Nevada Health District and Clark County

SNHD-1-INT-16-054

II. DEFINITIONS

Any terms used, but not otherwise defined in this Agreement shall have the same meaning as those terms in 45 CFR Parts 160 and 164.

- a) “Breach” means the acquisition, access, use, or disclosure of PHI a manner that is not permitted under the privacy regulations which compromises the security or privacy of the PHI. Any unpermitted access, use, or disclosure is presumed a breach absent a demonstration of a low probability that the PHI has been compromised.

- b) “Protected Health Information” (PHI) means individually identifiable health information including, without limitation, all data, documentation, demographic, medical, and financial information collected from an individual which relates to the past, present, or future physical or mental health, condition, provision of health care, or payment for the provision of health care to an individual. PHI includes without limitation “Electronic Protected Health Information” as defined below.
- c) “Electronic Protected Health Information” (ePHI) means PHI which is transmitted by Electronic Media (as defined in the HIPAA Security and Privacy Rule) or maintained in Electronic Media.
- d) “HIPAA Rules” means the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Parts 160 and 164.
- e) “Required by Law” has the same meaning as the term “required by law” in 45 CFR § 164.103.
- f) “Security Incident” means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.

III. BUSINESS ASSOCIATE CONFIDENTIALITY REQUIREMENTS (Privacy Rule)

Business Associate acknowledges and agrees:

- i) To not use or disclose PHI other than as permitted or required by this Agreement, the Service Agreements, or as Required by Law.
- ii) To use appropriate safeguards to prevent the use or disclosure of the PHI other than as provided for by this Agreement.
- iii) In case of any conflict between this Agreement and the Service Agreements, this Agreement shall govern.
- iv) All PHI created, received, maintained, or transmitted by Covered Entity and disclosed or made available in any form or format by Covered Entity or its operating units to Business Associate or is created, received maintained or transmitted by Business Associate on Covered Entity’s behalf shall be subject to this Agreement.
- v) To use or disclose any PHI solely for meeting its obligations as set forth in the Service Agreement(s) and as would be permitted by the HIPAA Security and Privacy Rule if such use or disclosure were made by Covered Entity.
- vi) Ensure all such uses and disclosures of PHI are subject to the limits set forth in 45 CFR § 164.514 regarding limited data sets and minimum necessary requirements.
- vii) Ensure any agent, including a subcontractor, to whom it provides PHI received from, or created or received by Business Associate on behalf of Covered Entity agrees to the same restriction and conditions that apply through this Agreement to Business Associate with respect to such information (45 CFR § 164.314).
- viii) To fully cooperate in good faith and to assist Covered Entity in complying with the requirements of the HIPAA Rules.
- ix) Subject to the exceptions contained in the HITECH Act, Business Associate will not directly or indirectly receive remuneration for the sale or exchange of any PHI without a valid authorization from the applicable individual. Business Associate will not engage in any communication which might be deemed “marketing” under the HIPAA Rules.

IV. BUSINESS ASSOCIATE SECURITY REQUIREMENTS (Security Rule)

Business Associate acknowledges and agrees:

- i) To implement appropriate safeguards and internal controls to prevent the use or disclosure of PHI other than as permitted in this Agreement or by the HIPAA Rules.
- ii) To use appropriate safeguards to prevent the use or disclosure of PHI other than as provided for by the Service Agreement(s), this Agreement, or as Required by Law. This includes the implementation of administrative, physical, and technical safeguards to reasonably and appropriately protect and secure the Covered Entity's ePHI against any reasonably anticipated threats or hazards, utilizing technology commercially available to the Business Associate. (45 CFR §§ 164.308, 164.310, 164.312). Business Associate shall maintain appropriate documentation of its compliance with the Privacy Rule, including, but not limited to, its policies, procedures, records of training, and sanctions of its workforce member. (45 CFR §164.316).
- iii) To notify Covered Entity immediately of any attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.

In the case of an unsuccessful attempt to gain unauthorized access, Business Associate need only notify Covered Entity of an attempt that had a reasonable probability of success.
- iv) To notify Covered Entity immediately upon discovery of a breach pursuant to the terms of 45 CFR § 164.410 and cooperate in Covered Entity's breach analysis procedures, including risk assessment and final determination on whether to notify affected individuals, media, or HHS.
 - a. A breach shall be treated as discovered by Business Associate as of the first day on which such breach is known to Business Associate or, by exercising reasonable diligence, would have been known to Business Associate.
 - b. Business Associate shall provide Covered Entity with all required content of notification pursuant to 45 CFR § 164.410 and 45 CFR 404 within 15 business days of discovery of the Breach.
- v) For breaches determined to have resulted from the Business Associate actions and/or its subcontractors, Business Associate will handle and pay all costs for any breach notifications and/or mitigation to affected individuals and notifications to HHS and the media, on behalf of the Covered Entity.

V. BUSINESS ASSOCIATE PERMITTED USES AND DISCLOSURES

Notwithstanding the prohibitions otherwise set forth in this Agreement, Business Associate may use and disclose PHI as follows:

- i) Subject to the limitations of this Agreement, Business Associate may use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
- ii) Except as otherwise limited in this Agreement, Business Associate may use PHI to provide Data Aggregation Services to Covered Entity as permitted by 45 CFR § 164.504(e)(2)(i)(b).
- iii) Business Associate shall report to Covered Entity any use or disclosure of PHI which is not in compliance with the terms of this Agreement of which it becomes aware. Business Associate shall report to Covered Entity any Security Incident it becomes aware, including breaches of unsecured PHI.

- iv) Business Associate may use PHI to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR § 164.502(j)(1).

VI. SPECIFIC USE AND DISCLOSURES

- i) HHS has the right to review, audit, or investigate Business Associate's records and practices related to the use and disclosure of PHI to ensure Covered Entity's compliance with the terms of the HIPAA Rules.
- ii) Upon request, provide Covered Entity with timely and appropriate access to records, electronic records, personnel, or facilities sufficient for Covered Entity to gain reasonable assurance that Business Associate is in compliance with the HIPAA Rules and the provisions of this Agreement.
- iii) At Covered Entity's Request, Business Associate agrees:
 - a. To comply with any requests for restrictions on certain disclosures of PHI to which Covered Entity has agreed and of which Business Associate has been notified.
 - b. Within 15 days of a request by Covered Entity, account for disclosures of PHI and make an account of such disclosure available to Covered Entity as required by 45 CFR § 164.528.

VII. TERMINATION

- i) Covered Entity shall have the right to terminate this Agreement and the Service Agreement(s) immediately if Covered Entity determines that Business Associate has violated any material term of this Agreement.
- ii) If Covered Entity reasonably believes that Business Associate has violated a material term of this Agreement, where practicable, Covered Entity shall either:
 - a. Give written notice to Business Associate with an opportunity to reasonably and promptly cure or end the violation and terminate the Agreement if the Business Associates does not cure the breach or end the violation within the reasonable time specified; or
 - b. Terminate this Agreement and the Service Agreement(s) immediately.
- iii) Upon termination of the Service Agreement(s), this Agreement, or at the request of Covered Entity, Business Associate will return or destroy all PHI received from or created or received by Business Associate on behalf of Covered Entity that Business Associate still maintains in any form and retain no copies of such information.
 - a. If such return or destruction is not feasible, Business Associate shall provide written assurances as to the means of continued protection of the data and extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction unfeasible for so long as Business Associate maintains the same.
 - b. Business Associate shall consult with Covered Entity as necessary to ensure an appropriate means for the return and/or destruction of any PHI and notify the Covered Entity in writing when such destruction is complete.
 - c. If PHI is returned, the Parties shall document when the PHI has been received by the Covered Entity.


VIII. MISCELLANEOUS

- i) The Parties agree that the provisions of HIPAA and the HITECH Act that apply to Business Associate are incorporated by reference into this Agreement in their entirety.

- ii) Business Associate agrees to make PHI available for amendment and incorporate any amendments to PHI in accordance with the requirements of 45 CFR § 164.526.
- iii) Except as expressly stated herein or the HIPAA Rules, the Parties to this Agreement do not intend to create any rights in any third parties.
- iv) The obligations of Business Associate under this Section shall survive the expiration, termination, or cancellation of this Agreement, the Service Agreement(s) and/or the business relationship of the Parties, and shall continue to bind Business Associate, its subcontractors, agents, employees, contractors, successors, and assigns.
- v) This Agreement may be amended or modified only in a writing signed by the Parties. No Party may assign its respective rights and obligations under this Agreement without the prior written consent of the other Party.
- vi) The Parties are independent entities and nothing contained herein shall be construed or deemed to create a relationship of employer and employee, principal and agent, partners, or any relationship other than that of independent parties voluntarily cooperating with each other solely for the purpose of carrying out the provisions herein.
- vii) This Agreement will be governed by the laws of the State of Nevada.
- viii) Failure to declare a breach or the actual waiver of any particular breach of the Agreement or Service Agreement(s) or its material or nonmaterial terms by either Party shall not operate as a waiver by such Party of any of its rights or remedies as to any other breach.
- ix) Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity and the Business Associate to comply with the HIPAA Rules.
- x) Any reference in this Agreement to a section in the HIPAA Rules means the section as in effect or as amended.
- xi) In the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the provisions of this Agreement will remain in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year written above.

COVERED ENTITY:

By: 
 Name: Andrew J. Glass, FACHE, MS
 Title: Director of Administration
 Date: 1/20/16

BUSINESS ASSOCIATE:

By: _____
 Name: Adleen Stidhum
 Title: Clark County Purchasing Manager
 Date: _____