



TO: SOUTHERN NEVADA DISTRICT BOARD OF HEALTH **DATE:** January 23, 2020

RE: *Approval of Agreement between the Southern Nevada Health District and Med-Strategies, Inc. dba Branson Management Group*

PETITION #28-20

That the Southern Nevada District Board of Health *approves Agreement between the Southern Nevada Health District and Med-Strategies, Inc. dba Branson Management Group.*

PETITIONERS:

EB Ernest Blazzard, Chief Financial Officer
Fermin Leguen, MD, MPH Acting Chief Health Officer *FL*

DISCUSSION:

The Southern Nevada Health District is engaged in the business of providing public health services and Federally Qualified Health Center services to the Clark County community and its visitors and requires support for medical billing to both government and commercial insurance carriers, including professional claim processing and medical billing services. Based on ongoing and anticipated billing requirements, the District asks to continue its established relationship with Med-Strategies, Inc. via the attached agreement.

FEES:

Fees for Services will be calculated using Contractor's direct costs, plus five percent (5%) of said direct cost in consideration of payments received as posted in the Health District Accounts Receivable records.



**PROFESSIONAL MEDICAL BILLING SERVICES AGREEMENT
BETWEEN
SOUTHERN NEVADA HEALTH DISTRICT
AND
MED-STRATEGIES, INC. DOING BUSINESS AS
BRANSON MANAGEMENT GROUP
C2000071**

This Professional Medical Billing Services Agreement (“Agreement”) is made and entered into between the Southern Nevada Health District (“Health District”) and Med-Strategies, Inc. doing business as Branson Management Group (“Contractor”) (individually Party, and collectively “Parties”).

RECITALS

WHEREAS, Health District is the public health entity organized pursuant to Nevada Revised Statutes (“NRS”), Chapter 439 with jurisdiction over all public health matters within Clark County, Nevada; and

WHEREAS, Health District is engaged in the business of providing public health services and Federally Qualified Health Center services to the Clark County community and its visitors, and requires support for medical billing to both government and commercial insurance carriers; including professional claim processing, and medical billing services (the “Services”); and

WHEREAS, Contractor is engaged in the business of providing medical billing services, and desires to provide the Services to Health District.

NOW THEREFORE, the Parties mutually agree as follows:

- 1) **TERM, TERMINATION, AND AMENDMENT.** This Agreement shall be effective from February 1, 2020 through January 31, 2021 unless sooner terminated by either Party as set forth in this Agreement.
 - 1.01 This Agreement may be terminated by either Party prior to the date set forth in this Section 1, provided that a termination shall not be effective until thirty (30) days after a Party has served written notice upon the other Party.
 - 1.02 This Agreement may be terminated by mutual consent of both Parties or unilaterally by either Party with or without cause.
 - 1.03 Upon termination, Contractor will be entitled to payment for services provided prior to date of termination and for which Contractor has submitted an invoice but has not been paid.
 - 1.04 This Agreement may only be amended, modified or supplemented by a writing signed by a duly authorized agent/officer of each Party and effective as of the date

stipulated therein.

- 2) **INCORPORATED DOCUMENTS.** The Services to be performed and the consideration therefore are specifically described in the below referenced documents, which are listed below and attached hereto, and expressly incorporated by reference herein:

ATTACHMENT A: SCOPE OF WORK

ATTACHMENT B: PAYMENT

ATTACHMENT C: BUSINESS ASSOCIATE AGREEMENT

- 3) **COMPENSATION.** Contractor shall complete the services in a professional and timely manner consistent with the Scope of Work outlined in Attachment A. Contractor will be reimbursed for expenses incurred as provided in Attachment B, Payment.

3.01 Upon Contractor's ability to access a reasonably dependable data feed through Health District's eClinicalWorks Electronic Health Records ("EHR") system, the Parties may renegotiate the payment structure of Attachment B through an Amendment to this Agreement pursuant to Subsection 1.04 herein.

- 4) **HEALTH DISTRICT RESPONSIBILITIES.**

4.01 In addition to Health District's other obligations under this Agreement, Health District will:

- a) Provide Contractor with appropriate patient demographic, driver's license, insurance identification card, patient encounter form, and appropriate procedure(s) and diagnosis code(s).
- b) Daily, through either electronic submission or manually, make available the information necessary to properly process the Health District's claims.
- c) Ensure electronically transferred data uses Health Level 7 Version 2.5.1 format.
- d) Forward explanation of benefit documents to Contractor once weekly.
- e) Forward a list of all payments accepted to Contractor monthly to ensure that an accurate accounting of each month's collections can be maintained by Contractor.

- 5) **STATUS OF PARTIES; INDEPENDENT CONTRACTOR.** The Parties are associated with each other only for the purposes and to the extent set forth in this Agreement and in respect to the performance of the Services pursuant to this Agreement. In the performance of such Services, each Party is and shall be separate and distinct from the other Party, subject only to the terms of this Agreement, and with the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Agreement.

5.01 Nothing contained in this Agreement shall be deemed or construed to create a partnership or joint venture, the relationship of principal and agent, or employer and employee, or to otherwise create any liability for one Party whatsoever with respect to the indebtedness, liabilities and obligations of the other Party.

5.02 Nothing in this Agreement or the relationship between Health District and Contractor shall create a co-employment or joint employer relationship.

- 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 C and expressly incorporated by reference herein.
- 7) **BOOKS AND RECORDS.** Each Party shall keep and maintain under generally accepted accounting principles full, true and complete books, records, and documents as are necessary to fully disclose to the other Party, properly empowered government entities, or their authorized representatives, upon audits or reviews, sufficient information to determine compliance with the terms of this Agreement and any applicable statutes and regulations. All such books, records and documents shall be retained by each Party in accordance with its respective Records Retention Policy or for five years; whichever period is longer, from the date of termination of this Agreement. This retention time shall be extended when an audit is scheduled or in progress for a period of time reasonably necessary to complete said audit and/or to complete any administrative and judicial litigation which may ensue.
- 8) **NOTICES.** All notices permitted or required under this Agreement shall be made by personal delivery, overnight courier, or registered or certified mail, return receipt requested to the other Party at its address as set out below:

Southern Nevada Health District
Legal Department
Contract Administrator
280 S Decatur Blvd.
Las Vegas, NV 89107

Med-Strategies, Inc.
dba Branson Management Group
44121 Harry Byrd Hwy #254
Ashburn, VA 20147

- 9) **MUTUAL COOPERATION.** The Parties agree to cooperate fully and provide assistance to one another in the investigation and resolution of any complaints, claims, actions or proceedings that may arise out of the provision of Services hereunder.
- 9.01 The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as is reasonably necessary, appropriate, or convenient to achieve the purposes of this Agreement.
- 10) **COMPLIANCE.** It is the intent of the Parties hereto to comply with all federal, state and local statutes, regulations and ordinances, including but not limited to submittal of accurate and truthful claims pursuant to 31 U.S.C. §§ 3729(a)(1)(A) and (B) of the False Claims Act, the anti-kickback provisions set forth in the fraud and abuse sections of 42 U.S.C. 1320(a), and prohibition of the reassignment of provider claims pursuant to 42 C.F.R. 447.10, as well as any regulations issued thereunder and any applicable similar state laws and regulations.
- 11) **STATEMENT OF ELIGIBILITY.** Contractor acknowledges to the best of its knowledge, information, and belief, and to the extent required by law, neither Contractor nor any of its employees/contractors is/are: i) currently excluded, debarred, suspended, or otherwise ineligible to participate in federal health care programs or in federal procurement or non-procurement programs; and ii) has/have not been convicted of a federal or state offense that falls within the ambit of 42 USC 1320a-7(a).

12) **INSURANCE.** Contractor at its sole cost and expense agrees to obtain and maintain in full force and effect during the term of this Agreement, insurance in commercially reasonable amounts calculated to protect itself and the Health District from any and all claims of any kind or nature for damage to property or personal injury, including death, made by anyone, that may arise from activities performed or facilitated by this Agreement, whether these activities are performed by Contractor or anyone directly or indirectly engaged or employed by Contractor.

13) **GENERAL PROVISIONS.**

13.01 **Severability.** If any provision contained in this Agreement is held to be unenforceable by a court of law or equity, this Agreement shall be construed as if such provision did not exist and the non-enforceability of such provision shall not be held to render any other provision or provisions of this Agreement unenforceable.

13.02 **Assignment.** Contractor shall not assign, transfer, or delegate any rights, obligations or duties under this Agreement without the Health District's prior written consent.

13.03 **Use of Name and Logo.** Contractor may not use the Health District's name or logo for any purpose without the Health District's prior written consent. Contractor agrees that Health District, in its sole discretion, may impose restrictions on the use of its name and/or logo. Health District retains the right to terminate, with or without cause, Contractor's right to use the Health District's name and/or logo.

13.04 **Integration Clause.** This Agreement, including all Attachments hereto, as it may be amended from time to time, contains the entire agreement among the Parties relative to the subject matters hereof.

13.05 **Proper Authority.** 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 in the documents incorporated herein.

13.06 **Exclusivity.** This Agreement is non-exclusive and both Parties remain free to enter into similar agreements with third parties. Contractor may, during the term of this Agreement or any extension thereof, perform services for any other clients, persons, or companies as Contractor sees fit, providing the performance of such services does not interfere with Contractor's performance of obligations under this Agreement, and does not, in the opinion of Health District, create a conflict of interest.

13.07 **Governing Law.** This Agreement and the rights and obligations of the Parties hereto shall be governed by and construed according to the laws of the State of Nevada, without regard to any conflicts of laws principles, with Clark County, Nevada as the exclusive venue of any action or proceeding related to or arising out of this Agreement.

13.08 **Limited Liability.** The Health District will not waive and intends to assert available NRS Chapter 41 liability limitations in all cases. To the extent applicable, actual agreement damages for any breach shall be limited by NRS 353.260 and NRS

354.626. Agreement liability of the Parties shall not be subject to punitive damages.

13.09 Indemnification. The Health District does not waive any right or defense to indemnification that may exist in law or equity.

13.10 Public Records. The Health District is a public entity subject to Nevada's public records act pursuant to NRS Chapter 239. Accordingly, information or documents, including this Agreement and any other documents generated incidental thereto may be opened to public inspection and copying unless a particular record is made confidential by law or a common law balancing of interests.

13.11 No Private Right Created. 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.

13.12 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.

IN WITNESS THEREOF, the Parties hereto have caused this Agreement to be executed by their undersigned officials as duly authorized.

SOUTHERN NEVADA HEALTH DISTRICT

APPROVED AS TO FORM:

By: _____
Fermin Leguen, MD, MPH
Acting Chief Health Officer

By:  _____
Heather Anderson-Fintak, Esq.
Associate General Counsel
Southern Nevada Health District

Date: _____

**MED-STRATEGIES, INC. DOING BUSINESS AS
BRANSON MANAGEMENT GROUP**

By: _____
Ramesh Gogineni
Chief Executive Officer

Date: _____

**ATTACHMENT A
SCOPE OF WORK**

Performance Period of February 1, 2020 through January 31, 2021:

- A. In return for the consideration detailed herein, during the term of this Agreement, Contractor will:**
- A.1 Process Health District's Medical Billing insurance claims for both government and commercial insurance carriers.**
 - (a) Prepare follow-up inquires to third-party payors when such payors have not responded to claims within ninety (90) days.**
 - (b) Reprocess any claim denied by an insurance carrier due to missing information, data entry error, or similar Contractor error requiring correction.**
 - (c) As appropriate, seek Health District's input for missing or incomplete information.**
 - (d) Use Health District's clearinghouse for submittal of claims. Health District's current clearinghouse is Waystar.**
 - A.2 Process Health District patient invoices for any co-pay, deductible, coinsurance or any other patient fees for which patient is responsible.**
 - (a) Process a monthly batch of patient responsibility statements, and mail appropriate statement individually to each patient.**
 - (b) Send a bill to each patient owing fees at 0, 30, and 60 days from the date of service.**
 - (c) Code accounts remaining unpaid after ninety (90) days from initial billing with "RT" and turn said accounts over to Health District for determination as to the appropriate course of action.**
 - A.3 Ensure billing information submitted to Contractor by the Health District is logged and preserved in original form as a transaction record, and that all diagnostic and service codes submitted by Health District in patient service records are faithfully reproduced, without code changes, in claims submitted by Contractor to third-party payor.**
 - A.4 Process all claims received from Health District within three (3) business days of receipt.**
 - A.5 Screen patient service records submitted by Health District to Contractor, and return patient service records with errant or missing data and/or information to Health District for correction prior to conversion to a claim and submittal to the payor(s).**
 - A.6 Process and submit clean claims received from Health District to primary and secondary payors within three (3) business days of receipt.**
 - A.7 Under no circumstances, make any changes, additions, or corrections to a patient encounter form without express prior written authorization by the Health District. Contractor understands all such written authorizations by will be retained with the**

respective modified encounter form(s) in accordance with the Parties' Records Retention Schedules.

- A.8 Bill each patient and/or patient's insurance carrier under the appropriate Health District's National Provider Identifier and Tax Identification Number.**
- A.9 Serve as the billing contact for the Health District on all insurance claims and patient inquiries, and will provide a local telephone number for receiving of such inquiries.**
- A.10 Designate Health District as the Party to whom payment is due on invoices.**
- A.11 Provide monthly management reports as requested by Health District basis. Monthly management reports requested may be any combination of the following:**
 - (a) Daily Charge, Payment and Adjustment Report/Daily Register**
 - (b) Visit Type Analysis**
 - (c) Insurance Payer Mix**
 - (d) Production/Procedure Code Analysis**
 - (e) A/R Aging – Insurance**
 - (f) A/R Aging – Patient**
 - (g) Productivity Analysis – Facility /Provider of Services**
 - (h) Monthly Activity Summaries, including year-to-year comparisons**
 - (i) Analysis reviews**
- A.12 Provide Consulting Services as requested by Health District for performance of specific tasks.**
- A.13 Work with Health District staff to resolve any communication or data entry problems regarding patient and insurance billing and follow-up on patient billing inquiries made to Health District's personnel.**
 - (a) The Health District's Chief Financial Officer and/or Designee will assign Health District staff as appropriate to assist Contractor with billing questions.**
- A.14 Ensure Health District is notified should Contractor untimely receive provider claim information from Health District staff, resulting in delay of Contractor's medical billing services. Contractor will not be responsible for such delays.**
- A.15 If Health District's EHR is not available for Contractor's use, process information using Contractor's billing software, or process manually until such EHR is functional and available to Contractor.**

**ATTACHMENT B
PAYMENT**

A. Fees for Services:

A.1 Fees for Services will be calculated using Contractor's direct costs, plus five percent (5%) of said direct cost in consideration of payments received as posted in the Health District Accounts Receivable records.

(a) Contractor will include corresponding direct cost detail and calculations of Fees for Services with each invoice submitted to Health District for payment.

B. Additional Services:

(a) Consulting Fees: \$150 per hour, or as negotiated for a specific task.

(b) Postage Fees: Contractor agrees to pay all postal costs related to providing Services to Health District.

C. Contractor will invoice Health District no more frequently than one time each month:

(a) Backup documentation including but not limited to invoices, receipts, monthly reports, proof of payments or any other documentation requested by Health District is required, and shall be maintained by the Contractor for seven (7) calendar years after the termination of this Agreement, or in accordance with Contractor's Records Retention Schedule; whichever is longer.

(b) Contractor invoices shall be signed by the Contractor's official representative, and shall include a statement certifying that the invoice is a true and accurate billing.

D. Health District shall pay any Services fees due hereunder within thirty days after receiving Contractor's detailed invoice for such services.

E. Contractor shall be solely responsible for its own state, local and federal taxes on any fees received for services provided.

F. Health District shall not be liable for interest charges on late payments.

G. In the event items on an invoice are disputed, payment on those items will be held until the dispute is resolved. Undisputed items will not be held with the disputed items.

**BUSINESS ASSOCIATE AGREEMENT
BETWEEN
SOUTHERN NEVADA HEALTH DISTRICT
AND
MED-STRATEGIES, INC. DOING BUSINESS AS
BRANSON MANAGEMENT GROUP**

This Business Associate Agreement (“Agreement”) is made and entered into on the 1st day of February, 2020 between the Southern Nevada Health District (“Covered Entity”), and Med-Strategies, Inc. doing business as Branson Management Group (“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 Professional Billing Services Agreement:

**Professional Medical Billing Services Agreement between Southern Nevada Health District and
Med-Strategies, Inc. doing business as Branson Management Group, C2000071**

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.

- i) "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.**
- ii) "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.**
- iii) "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.**
- iv) "HIPAA Rules" means the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Parts 160 and 164.**
- v) "Required by Law" has the same meaning as the term "required by law" in 45 CFR § 164.103.**
- vi) "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.
- vi) All notifications as permitted or required pursuant to this Agreement must be in writing, and shall be made by personal delivery, overnight delivery, or via U.S. certified mail, postage prepaid to Covered Entity at the address set forth below:

Lynne Foster
Privacy Officer
280 S. Decatur Boulevard
Las Vegas, NV 89107

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) This Agreement shall terminate in the event that the underlying relationship, functions, or services that gives rise to the necessity of this Agreement terminates for any reason. Upon such termination, the provisions of this Agreement which expressly or by their nature survive expiration or termination will remain in effect.**
- iv) 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) Business Associate will indemnify and hold harmless Covered Entity and any of its officers, directors, employees, or agents against any claim, cause of action, liability, damage, cost, or expense, including reasonable attorneys' fees and court or proceeding costs, arising out of or in connection with any breach of the terms of this Agreement, any Breach of Private information under the control of Business Associate or its agents or subcontractors that requires notification under the HIPAA Rules or state law, or any failure to perform its obligations with respect to Private Information by Business Associate, its officers, employees, agents, or any person or entity under Business Associate's direction or control.
- vi) 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.
- vii) 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.
- viii) This Agreement will be governed by the laws of the State of Nevada.