

**BUSINESS ASSOCIATE AGREEMENT
HIPAA PRIVACY SATISFACTORY ASSURANCES**

This business associate agreement ("Agreement"), is made and entered into on _____, 200_, by and between Accreditation Association for Ambulatory Health Care, Inc. ("Business Associate") an Illinois corporation, and _____ ("Covered Entity") (each a "Party" and collectively the "Parties").

TERMS

In an effort to comply with the privacy and confidentiality requirements provided in the rules promulgated under the Health Insurance Portability and Accountability Act of 1996, and as amended from time to time ("HIPAA"), the parties hereby agree to the following:

1. **DEFINITIONS.** Unless otherwise defined herein, all terms used herein shall have the meanings ascribed to them in the Agreement.

1.1 Health Care Operations shall have the meaning defined in 45 C.F.R. §164.501, as currently drafted and subsequently amended.

1.2 Protected Health Information ("PHI") shall have the meaning defined in 45 C.F.R. §164.501, as currently drafted and subsequently amended.

2. **PERMISSIVE USES OF PHI BY BUSINESS ASSOCIATE**

2.1 Services. Except as otherwise specified herein, Business Associate may obtain, access, receive and use PHI in order to perform its obligations relating to the accreditation survey process as described in the current edition of the AAAHC Accreditation Handbook for Ambulatory Health Care, and any other activities pertaining to accreditation of the Covered Entity. Business Associate hereby represents that it does not create, collect, compile or maintain PHI in any form in connection with the services provided between the parties. Any PHI that Business Associate may access in performing its obligations shall be held in strict confidence and shall not be further used or disclosed unless otherwise permitted in this Agreement. All other uses not authorized by this Agreement are prohibited, unless required by law or agreed to in writing by the Covered Entity.

2.2 Activities. Unless otherwise limited herein, Business Associate may:

- a. use the PHI in its possession for its proper management and administration and to fulfill any present or future legal responsibilities of Business Associate, provided that such uses do not violate state and/or federal confidentiality laws.
- b. disclose the PHI in its possession to third parties for the purpose of its proper management and administration or to fulfill any present or future legal responsibilities of Business Associate, provided that Business Associate represents to Covered Entity, in writing, (i) that the disclosures are required by law, or (ii) Business Associate has received from the third party written assurances regarding its confidential handling of such PHI.
- c. aggregate the PHI in its possession with the PHI of other covered entities that Business Associate has in its possession through its capacity as a business associate to said other

covered entities, provided that the purpose of such aggregation is to provide Covered Entity with data analyses relating to the Health Care Operations of Covered Entity.

- d. de-identify any and all PHI, provided that the de-identification conforms to the requirements of 45 C.F.R. § 164.514(b).

3. RESPONSIBILITIES WITH RESPECT TO PHI

3.1 Responsibilities of the Business Associate. With regard to its use and/or disclosure of PHI, Business Associate hereby agrees to:

- a. report to Covered Entity, in writing, any use and/or disclosure of the PHI that is not permitted or required by this Agreement of which it becomes aware within fifteen (15) days of Business Associate's discovery of such unauthorized use and/or disclosure.
- b. establish procedures to safeguard against improper uses and disclosures of PHI.
- c. use commercially reasonable efforts to maintain the security of the PHI and to prevent its unauthorized use and/or disclosure.
- d. require all of its subcontractors and agents that receive, use or have access to PHI under this Agreement to agree to adhere to the same restrictions and conditions on the use and/or disclosure of PHI that apply to Business Associate.
- e. make available all records, books, agreements, policies and procedures relating to the use and/or disclosure of PHI to the Secretary of HHS for purposes of determining Covered Entity's compliance with HIPAA, subject to applicable legal privileges.
- f. notify Covered Entity within five (5) business days if any individual requests access to his or her own PHI from Business Associate when Business Associate maintains any PHI relating to such individual. Following receipt of such notice, Covered Entity shall handle such request.
- g. incorporate amendments into the PHI as directed by Covered Entity within five (5) business days of receipt of a request from Covered Entity when Business Associate maintains any PHI relating to such individual. If any individual submits to Business Associate a request to amend his or her own PHI, Business Associate shall, within five (5) business days, notify Covered Entity of the details of such request. Following receipt of such notice, Covered Entity shall handle such request.
- h. within ten (10) days of Covered Entity's notice to Business Associate of a request from an individual for an accounting of disclosures of his or her PHI, make available to Covered Entity such information as is in Business Associate's possession and is required for Covered Entity to make the accounting required by 45 C.F.R. § 164.528.

4. TERMS AND TERMINATION

- 4.1 Term. This Agreement shall become effective immediately and shall continue in effect as long as Business Associate evaluates Covered Entity for accreditation purposes, unless terminated as provided in Subsection 4.2.
- 4.2 Termination by Covered Entity. Covered Entity may terminate the Agreement and any related agreements/amendments if it makes the determination that Business Associate has breached a material term of this Agreement and has provided Business Associate an opportunity to cure said alleged breach upon mutually agreeable terms. Failure to cure in the manner set forth in this paragraph is grounds for the immediate termination of the Agreement.
- 4.3 Effect of Termination. Upon termination of the Agreement, Business Associate agrees to return or destroy all PHI and retain no copies thereof, if it is feasible to do so, within sixty (60) days of the expiration or termination of the Agreement. Prior to doing so, Business Associate further agrees to recover any PHI in the possession of its subcontractors or agents. If it is not feasible for Business Associate to return or destroy said PHI, Business Associate shall notify Covered Entity in writing that it has determined that it is infeasible to return or destroy the PHI and the specific reasons for such determination. Business Associate further agrees to extend any and all protections, limitations and restrictions contained in this Agreement to Business Associate's use and/or disclosure of any PHI retained after the termination of this Agreement, and to limit any further uses and/or disclosures to the purposes that make the return or destruction of the PHI infeasible. If it is infeasible for Business Associate to obtain, from a subcontractor or agent any PHI in the possession of the subcontractor or agent, Business Associate must provide a written explanation to Covered Entity and require the subcontractors and agents to agree to extend any and all protections, limitations and restrictions contained in this Agreement to the subcontractors' and/or agents' use and/or disclosure of any PHI retained after the termination of this Agreement, and to limit any further uses and/or disclosures to the purposes that make the return or destruction of the PHI infeasible.

5. MISCELLANEOUS

- 5.1 Superceding Effect. Should the terms of this Agreement conflict with the terms of the Application for Accreditation Survey, the terms for more stringent protections of PHI shall apply.
- 5.2 Severability. In the event that any provision of this Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision thereof.
- 5.3 Survival. The respective rights and obligations of Business Associate under Subsection 4.3 shall survive termination of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement through their duly authorized representatives as of the Effective Date to amend all agreements between the Parties for which the provisions herein apply.

COVERED ENTITY

By: _____

Print Name: _____

Print Title: _____

Date: _____

BUSINESS ASSOCIATE

**Accreditation Association for Ambulatory Health
Care, Inc.**

By: 

Print Name: John E. Burke, PhD

Print Title: Executive Director & CEO

Date: